

CHINA: HUMAN RIGHTS AND MFN

Y 4.F 76/1:C 44/28

China: Human Rights and MFN, 103-2... RING

BEFORE THE
SUBCOMMITTEES ON
ECONOMIC POLICY, TRADE AND ENVIRONMENT;
INTERNATIONAL SECURITY, INTERNATIONAL
ORGANIZATIONS AND HUMAN RIGHTS; AND
ASIA AND THE PACIFIC

OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

MARCH 24, 1994

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CHINA: HUMAN RIGHTS AND MFN

THURSDAY, MARCH 24, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON ECONOMIC POLICY, TRADE AND ENVIRONMENT;
SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTERNATIONAL ORGANIZATIONS AND HUMAN RIGHTS;
AND SUBCOMMITTEE ON ASIA AND THE PACIFIC,

Washington, DC.

The subcommittees met, pursuant to notice at 1:22 p.m., in room 2172, Rayburn House Office Building; Hon. Tom Lantos (chairman of the Subcommittee on International Security, International Organizations and Human Rights) presiding.

Mr. LANTOS. The joint hearing of the Subcommittee on International Security, International Organizations and Human Rights, Subcommittee on Asia and the Pacific and the Subcommittee on Economic Policy, Trade and the Environment will be in order.

This hearing on U.S.-China policy is taking place at a crossroads in the executive's decisionmaking and credibility. Congress battled with the previous administration over China policy beginning in June 1989 when Prime Minister Li Peng ordered the People's Liberation Army to open fire on hundreds of student protesters at Tiananmen Square.

In 1992, President Bush vetoed legislation linking China's trading privileges with the United States to its human rights record. President Clinton sought to avoid the annual battle by accepting the idea of linkage but delaying the day of reckoning for a year. He hoped that in the meantime the Chinese would come into compliance with what even critics of the linkage policy admit are utterly reasonable conditions.

This hearing takes place shortly after Secretary Christopher's visit to China during which the Chinese Government categorically rejected U.S. linkage of human rights to trade policy. Moreover, the Chinese leadership made a mockery of the Secretary's efforts to characterize the visit as useful in bringing the two sides closer together by deliberately arresting and detaining several prominent Chinese dissidents before and during Assistant Secretary Shattuck's visit and prior to the visit of Secretary Christopher.

A grim tone was set in the weeks preceding Secretary Christopher's recent visit as the Chinese authorities increased their repression of Tibetans and Chinese Catholics and Protestants. Chinese Government actions during Secretary Christopher's trips now raise the question whether the Chinese Government intends to

meet the criteria spelled out in President Clinton's Executive order of May 28, 1993 which conditions China's MFN status on improvement in its human rights performance.

Under that Presidential Executive order, the Secretary may not recommend an extension of China's Most-Favored-Nation trading status in 1994 unless he determines that China has met all seven conditions in the Executive order. The Executive order requires the following: the Secretary of State must certify that an extension of most favored national treatment will substantially promote the freedom of immigration objectives and that China has abided by its Memorandum of Understanding with the United States to stop exporting goods produced by forced labor to the United States and to allow inspections of suspected labor camps. It also calls for overall significant progress in human rights, including to adhering to the Universal Declaration of Human Rights, releasing and acceptably accounting for political prisoners, ensuring humane treatment of prisoners, protecting Tibet's religious and cultural heritage and permitting international radio and television broadcasts into China.

As the June 3 deadline for the President's decision on renewal of MFN to China approaches, there are clear signs of division within our own administration. Some obviously maintain that the linkage of trade and human rights policy is counterproductive and will wind up hurting the United States more than China. They point to other important aspects of the U.S.-China relationship noting our interest in encouraging China to avoid playing a spoiler role in the United Nations, compel North Korea to comply with the International Atomic Energy Agency regulations and to uphold China's nonproliferation obligations. This group feels that realpolitik, geopolitical concerns clearly outweigh human rights issues and they would like the administration to abandon the linkage policy.

Others, including Secretary Christopher seem to favor the concept of linkage and are now attempting to extract sufficient face-saving concessions from the Chinese to allow the President credibly to certify that the Chinese have complied with the Executive order. This group suggests that allowing China to pledge improved behavior or to substitute general for overall significant progress would be useful as benchmarks. But this second group may have reached the same conclusion as the first, that MFN renewal for China may be in the best interest for the United States.

Now this morning, in this room, we dealt with Russia. There, we also had distinguished panel of administration witnesses. And the contrast between the two subject matters and the two hearings could not be more striking because while Russia has moved in the direction of establishing a multiparty election system, a free press and an attempt to create the beginnings of a democratic structure, the economy is crumbling and there is turmoil and an increase in crime and social dissension.

In China, on the other hand, we have had a great deal of economic improvement, but at the price of continued political suppression and a dictatorial police state.

I am pleased to welcome Assistant Secretary of State for Asia and the Pacific, Winston Lord, and Assistant Secretary of State for Human Rights and Humanitarian Affairs, John Shattuck, who

come before us today to discuss U.S. policy toward China. I want to commend both of these men for their superb performance under very difficult circumstances in China 2 weeks ago. They represented not just the U.S. Government, but American principles with dignity and honor. The Clinton administration deserves praise, not criticism, for its principled stance on MFN for China.

In the aftermath of the Chinese Government's hostile reception of Secretary of State Warren Christopher there has been a lot of sound and fury over U.S. policy toward China. While interpretations and dire predictions are flying fast and furious, it might be instructive to recall some indisputable facts.

China's human rights performance, relative to the conditions laid out in the President's Executive order of last May, has not improved during the past year. Forced confessions and torture by police and prison authorities are commonplace.

Chinese prisons are filled today with thousands of political and religious prisoners who committed the crime of trying to practice universal basic freedoms of speech and assembly.

Prisoners are still used as slave labor for China's huge export market.

Coercive birth control practices continue, including forced abortions and forced sterilizations.

China continues its brutal occupation and colonization of Tibet, seeking not only to deny Tibetans control over their country but also to destroy a rich and ancient cultural heritage.

Restrictions on emigration remain in place for dissidents, and the regime also practices internal exile.

The jamming of the Voice of America broadcasts continues.

Thus, China has not made sufficient progress on human rights to justify renewal of its MFN status. Tim Wirth, Counselor to the State Department, acknowledged this at the February 1 hearing of this subcommittee when he stated, and I quote: "If you look very clearly at the language of the China Human Rights Report, it notes limited progress, and that word was carefully chosen. Limited progress does not meet the criteria of overall significant progress laid out by the President of the United States."

China, the most populous country on earth, possesses nuclear weapons, has a huge army, and is a member of the United Nations Security Council. It exerts a great deal of influence on global affairs. It cannot be allowed to flaunt its international obligations as it currently does. To allow it to continue to do so with impunity, is to undermine the very foundations of the international system. China poses a grave threat to regional security.

Now let me say a word about specific concerns in the U.S.-China relationship. China sharply limits U.S. market access and violates trade agreements with the United States. It routinely pirates software and other U.S. intellectual properties. It uses prison labor in violation of international labor standards.

The U.S. Trade Representative Mr. Kantor recently cited Chinese trade violations in U.S.-Chinese textile trade, accusing the Chinese of transshipping every year some \$2 billion of goods in excess of its quota.

We have our second largest trade deficit with China. It was \$23 billion last year; it could reach as much as \$30 billion this year.

Thirty-eight percent of China's exports come to the United States. And the goods traded raise some very profound questions. The Chinese military is operating on our shores, with the approval of the Department of State and the Bureau of Alcohol, Tobacco, and Firearms. We are allowing unfettered trade to take place—a trade that enriches the army of a country that poses a grave threat to international security and a trade that has greatly contributed to the bloodshed here at home. It was a Chinese rifle that was used last year in the attack on motorists near the CIA; it was a Chinese rifle that a deranged man in Louisville used to kill 8 coworkers and to wound 12 others, and it was a Chinese AK-47 used by the crazed killer in the school playground in Stockton, California. According to an official of the U.S. Customs Agency, Norinco, the Chinese supplier of the AK-47, is flooding the U.S. market with, and I quote: "Chinese imports so cheap that it is possible now to buy a semi-automatic rifle for \$129 dollars or less. A similar American weapon would cost about 10 times as much. It just allows more and more individuals to put their hands on such weapons."

I have joined my colleague Edward Markey and others in this body in fighting to close this loophole.

Let me say a word about the nonproliferation of nuclear and conventional weapons. China continues to supply advanced weapons and technology to Syria, Iraq, Iran and Pakistan. The United States has charged that China's sale last summer of M-11 missile components to Pakistan was in violation of the Missile Technology Control Regime. Despite the moratorium on the testing of nuclear weapons that the United States and other nuclear powers are maintaining, China refuses to comply and continues its nuclear testing.

China has been reluctant to use its enormous influence over North Korea in the international effort to compel North Korea to adhere to its obligations under the Nuclear Nonproliferation Treaty.

Now these are four areas of vital importance to the United States and the international community. All four are interconnected, but underlying all of them is human rights because a country's human rights performance reveals its attitude toward the rule of law and its standards of conduct and decency.

Thus, progress on the human rights front is sure to bring progress in other areas; conversely, a deteriorating human rights record is most assuredly going to be reflected in more egregious performances in other areas. A country that violates the most basic rights of its own citizens is likely to ignore its treaty obligations and to have precious little concern for maintaining peaceful relations with its neighbors.

Hence, the United States should mobilize all the resources at its disposal to compel better performance by China in all of these areas, but especially human rights. It is not, as some in the business community assert, against our self-interest to deny the Chinese Government access to the huge U.S. market and to American technology. Rather, it is entirely in our self-interest to try to influence China's behavior in a positive direction.

Trade is one of the most potent weapons we have in our arsenal and we will never have more leverage than we do today. China

needs us infinitely more than we need China. I am sure we can easily find a new, low-cost supplier of Barbie dolls, running shoes and Christmas tree lights. China, however, will have a much harder time finding another market like ours because our economy dwarfs all others. Indeed, China is running a trade deficit with all of its major trading partners except the United States. So let us not hesitate to play our hand. It is a royal flush.

Let me say in conclusion, the Chinese regime is very sensitive to its reputation and, in the aftermath of Tiananmen Square, it is striving for full rehabilitation in the international community. Hence, denying the regime the right to host the Olympics in Beijing in the year 2000 dealt a very deep blow to the Government's prestige and encouraged millions of brave Chinese citizens who have fought for human rights and democracy.

We must explore all avenues open to us. We must explore the avenue of enhancing our relations with Taiwan. Taiwan is a prosperous and responsible member of the international community. Taiwan is denied U.N. membership. Those policies need to be reexamined.

I believe under present circumstances, MFN for China in addition to being the only moral course for our Government to take is also a highly pragmatic one for all of the above reasons. Not to do so would cost the United States its credibility in the eyes of both our enemies and our friends. If we do not follow through on the policy we ourselves set, we will lose credibility not only in Beijing, but in Pyongyang, Baghdad, Havana and throughout the world, but particularly among the people throughout this world who look to the United States for leadership on human rights.

Now, it is still possible for China during the course of the next 6 weeks to make the dramatic changes called for in its human rights for the President credibly to state that China met the conditions laid down by the President. I hope the government in Beijing does not misconstrue the voices of some people in the business community and some in our own government and recognizes that the American people and the American Congress overwhelmingly insist on improvement in human rights conditions as a prerequisite for extending MFN.

[The prepared statement of Mr. Lantos appears in the appendix.]

Mr. LANTOS. I am delighted now to call on the distinguished chairman of the Subcommittee on Economic Policy, Trade and Environment, Chairman Gejdenson.

Mr. GEJDENSON. Thank you, Mr. Chairman. I want to join you in every sense of your statement and support the approach that you have taken here today. For too long, it seemed to me that U.S. policy had one set of standards for the Soviet Union when it existed and countries in Europe who violated human rights and every basic element of decent conduct and a separate standard for China, whether they were too far away or came from a different history, for whatever reason, we seemed to believe that there was one standard for human behavior in the European community and another in Asia.

This is about one standard for all human beings across the globe. It is a message not just to the tyrants in Beijing, but to tyrants across the globe. And it is as my colleague has indicated to our eco-

nomic advantage and to our moral advantage and to every other issue that we have before us, it is critical that we take a firm stand here.

I would also like to join him in contrasting the situation on Taiwan. In the years that China has not moved from its repressive behavior, its continued use of prison labor, its violation of human rights, its continuation of proliferation, Taiwan has moved to a democratic form of government with real opposition and a free press and I would hope that this administration would take a greater notice of the progress made in Taiwan and that we ought use that as well in making sure the mainland understands the incredible outrage not just by those of us in Congress but throughout the American people as a result of China's actions.

We have had an administration in the past that tried to work with the Chinese in a cordial fashion hoping that when Brent Scowcroft went there to make toasts with the Chinese Government after Tiananmen Square that he would see some progress. That clearly did not work. And I believe the President's approach is the right one. The Chinese have it within their ability to take the actions necessary to give them MFN, but it is their advantage to take these actions. It is the right thing to do. They have a tremendous trade surplus with us and this is a time when we have the cards in our hands to make a demand for one standard of human rights across the globe.

[The prepared statement of Mr. Gejdenson appears in the appendix.]

Mr. LANTOS. Thank you very much.

I am delighted to call on my good friend, chairman of the Subcommittee on Asia and the Pacific, Chairman Ackerman.

Mr. ACKERMAN. Thank you very much, Mr. Chairman.

The U.S.-PRC relations are at a very critical juncture. The question facing policymakers in both countries is how to overcome the legacy of nearly 5 years of stagnation, culminating in the tension that has occurred during the past several weeks.

Last year at a similar hearing I suggested that the most appropriate policy should achieve, among others, the following three objectives: The protection of human rights for all citizens of the PRC; movement toward democracy and market economies; and keeping the U.S. businesses competitive in this extremely important market.

While I continue to believe that these objectives are critical in enabling us to maintain and enhance the U.S.-PRC relationship, the recent actions by the Chinese Government are making this very difficult.

Two weeks ago, the government bluntly rejected efforts by Secretary of State Warren Christopher to get them to respond to U.S. human rights demands and virtually dared the Clinton administration to carry out a threat to disrupt bilateral trade over the issue. This rebuff, coupled with the rounding up and detention of dissidents prior to the Secretary's visit, only proves to us that the Chinese are not yet serious about making enough progress on the issue of human rights.

The PRC must take concrete steps in this area in order to receive renewal of its MFN status. It is not possible for the Clinton admin-

istration or the U.S. Congress to renew Most-Favored-Nation Status if we do not see progress on this front. The President's May 28, 1993 Executive order stated that the United States would extend the PRC's Most-Favored-Nation status if seven conditions were met. For the last several months, the Clinton administration has been warning the leaders of the PRC that unless this occurs, MFN will not be granted. In order to turn around this relationship, President Clinton and we need more than gestures from China that address American concerns and assuage critics in the area of human rights, in order for him, the President, and us to overcome the political forces favoring a more aggressive U.S. posture toward China.

I would like to mention that with respect to trade and proliferation, I also have serious concerns. I am deeply and philosophically opposed to any forced population transfer of ethnic Chinese into Tibet thereby destroying Tibetan national identity.

Whether or not there is broad support to drop the linkage of human rights to MFN is not an issue this year. We have an Executive order that must be adhered to. Given the immense problems inherent in this debate, I hope that the United States and the PRC are able to reach agreement on these issues so that we can move forward on areas of common concern and shared objectives to improve our relations.

We look forward to hearing from our two distinguished witnesses this afternoon and in furthering our knowledge and insight into the future of how the administration plans to proceed in our relationship with the People's Republic of China. Thank you, Mr. Chairman.

[The prepared statement of Mr. Ackerman appears in the appendix.]

Mr. LANTOS. Thank you very much.

I am delighted to call on our good friend and distinguished colleague, the ranking Republican on the subcommittee, Congressman Bereuter.

Mr. BEREUTER. Thank you very much, Mr. Chairman.

Your hearings on this controversial subject of human rights in China and extension of MFN to the PRC are very appropriate and, of course, are quite timely. I look forward to the testimony of the distinguished representatives of the administration of Secretary Shattuck and Secretary Lord. I will give the balance of my time to Mr. Smith who has a statement he would like to put forth.

Mr. LANTOS. I am very pleased to call on the distinguished gentleman from New Jersey.

Mr. SMITH. Thank you very much and I thank my good friend for yielding.

Mr. Chairman and members of the committee and our distinguished witnesses who we will hear from shortly, I believe that none of us can close our eyes, squint at, or in any way downplay or overlook the abysmal human rights record of the People's Republic of China. Let us be candid. China has been and continues to be a dictatorship, a cruel dictatorship. Its leaders routinely violate the rights of its citizenry and the trend regrettably and ominously is moving in precisely the opposite direction.

As we all know, the U.S. Department of State in its annual Country Reports of Human Rights Practices says that China's, "overall human rights records in 1993 fell far short of internationally accepted norms." Not a little bit short. It didn't show any progress. It fell far short.

When this report was issued, many top-level officials said and we asked them, the chairman and I and other Members of this committee as they came before our committee and they also said before other committees, that based on the evidence that they had, China had not made significant progress.

Mr. Chairman, I am disturbed and very concerned at the recent reports which indicate a shift in attitude by the administration. Just prior to Secretary Christopher's historic trip to China earlier this month we began hearing that rather than significant progress, the administration might accept a grand gesture or promises for progress in place of measurable tangible progress in human rights. Last week, President Clinton further confused the issue when he said, and I quote, "Our policy is that human rights are important, but so are the other issues." A commentary in a Hong Kong newspaper interpreted this remark as indicating that and I quote: "There has been some change in the official U.S. approach to China."

In the same week, Secretary Madson said that the administration needed to rethink its strategy for dealing with the PRC.

There is a great deal of concern that China is getting mixed signals and that what the United States means when it says significant progress and what it means by that in China. Frankly, the more I see from the administration, the more mixed signals I receive as well. And I am trying in good faith to give every benefit of the doubt to the administration.

Mr. Chairman, I would invite during our testimony of our very distinguished witnesses, Ambassador Lord and Secretary Shattuck, to repudiate any weakened standard of assessment so that the administration and Congress can then speak hopefully with one voice.

Mr. Chairman, during my visit to China in January, I just want to remind members that I attended a Mass, met with some dissidents, met with high government officials including their Appropriator General, but just for meeting with some Christians and with a bishop by the name of Su who had spent 15 years parenthetically in Chinese prisons and suffers a very severe physical disability because of the beatings and torture that he had felt at the hands of the police, but because of that visit he was arrested by security forces and held in detention for 9 days.

What we did not know at the time is that another bishop, Pei, was also scheduled to say Mass for our delegation, a concelebrated Mass, we were told that he had gone for an emergency anointing of the sick. I had found out recently that the person—that this Bishop Pei—was actually rounded up by the police and held in detention and that it was done again when the Secretary was in Beijing. So, again, just like the other more well-known dissidents, a whole host of others who have been outspoken on human rights or have sought to practice their faith have found themselves shunted aside, put into prison or detention, simply because they rep-

resent some kind of threat to this regime somewhere in their minds.

Mr. Chairman, as you know, and I know our distinguished witnesses know, new religious laws which further restrict the religious activity of foreigners and of Chinese were issued on January 28. These new laws or policies outlaw activities even done in the privacy of one's own home and are aimed at crushing the house church movement which has been proliferating and growing in an explosive fashion throughout all of China. This has given, in my view, the security forces and shared by many human rights organizations an engraved invitation, the green light, to arrest, to harass, to steal from these people and, of course, to use the normal means of extracting confession of torture and beatings. One of the victims happened to have been an American, Reverend Dennis Balcomb. He was detained for 4 days for his prayers and his worshipping services with some of the Christians in China. He was finally deported.

Mr. Chairman, Mr. Shattuck's meeting with Wei Shu Song, I think, is symbolic of U.S. commitment to humans rights. It should have been a clear signal to the Chinese Government, but yet the President of China said at your meeting and as I know with Wei, that it was, "ridiculous," and it showed a lack of sincerity to improve relations with China. Mr. Zemin also said some very unflattering comments about our Secretary. He said, and I quote in a special dispatch that was published in Hong Kong that, "Mr. Christopher was child's play. And all that Mr. Christopher wanted to do was to play tricks." I think the Chinese President has the audacity to make those kind of insulting comments about our Secretary of State should have sway here and everywhere else where human rights are respected and revered.

Mr. Chairman, finally just let me say that contained in the Executive order and perhaps you might recall the fine print, but the implementation date that was transmitted to Congress is a clear area dealing with the coercive population control program. And I think members of this committee know that for the last decade and now into the 1990's, I have raised this issue repeatedly as a grave human rights abuse. Women are forced to abort or forced to have IUD's inserted or are forcibly sterilized and men are forcibly sterilized as well, and that is a grave infringement on the privacy as well as the integrity of these individuals.

In a recent speech, Pon Pei Yong, the head of State Family Planning Council in China with whom I met with some years ago in China for approximately 2½ to 3 hours, she says now that everything possible must be done to lower the birth rate. In China, the ends justify the means. If that means more forced abortions, more coercive abortions and a rolling out of the eugenics law which is already in effect, as I think most people know, at least since 1988, the handicapped are being targeted simply because they may have Down's Syndrome or have some other anomaly that in this country we seek to protect, in that country, they kill. And I think again the mixed signals that the administration sends, Mr. Chairman, while these words are good and I was grateful that they were in the Executive order, we are simultaneously trying to send \$100 million in fiscal year 1994 and 1995 combined to the United Nations Popu-

lation Fund which has been the chief cheerleader and supporter and whitewasher of these crimes throughout the past decade. And now we are going into a high tide again where people are being routinely coerced into this population control program of one-child-per-couple and we're giving the money under the seemingly plausible argument that the funds will be segregated at the UNFPA. We should say anywhere our money has influence, directly or indirectly, Mr. Chairman, we do not want any part of coercing women to kill their children.

Some of the impact is already being shown in the disparity of boys and girls. *U.S. News and World Report*, in the March 28 edition, points out missing women. It points out that there are some 40 million women that are not in China. They have been killed. Selective abortion, the use of sonograms, is being used to find baby girls. You can only have one. That puts the pressure of having a boy. And these poor girls are being slaughtered by the state because of this one-child-per-couple policy.

We also, as you know, Mr. Chairman, had some very disturbing testimony this week about how—and there are some very credible reports—more and more women are being sold into sexual slavery in China. And I would ask that my additional remarks on this and a number of other issues that I am concerned about will also be included in the record at this time. And thank you, Mr. Chairman.

Mr. LANTOS. Without objection, it will be included in the record.

[The prepared statement of Mr. Smith appears in the appendix.]

Mr. LANTOS. I would like to call on my colleague from the State of Washington, Congresswoman Cantwell.

Ms. CANTWELL. Thank you, Mr. Chairman. I will submit the majority of my statement for the record, but I just want to say that I agree with my colleagues that we should in this timeframe focus on the Executive order and the possibility of meeting the goals and certainly not drop the ball in the air at this point in time on the success of those policies.

I am a relative newcomer to this issue, though. I do want to add, Mr. Chairman, it does strike me as somewhat counterproductive as we continue to have this issue debated every year where we are constantly running up to the edge of the MFN cutoff and decide at the last minute to not make a decision. I hope that in the future after this we continue to evaluate better ways to have a long-term policy to meet all of our goals on the MFN.

Mr. LANTOS. Thank you very much.

I would like to call on the distinguished gentleman from California, Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you, Mr. Chairman, I will be brief. Obviously those who come to testify do not have to sit here forever and listen to us testify today, as you have come to testify; but it is important for us to express our opinion. I do believe that human rights has an important role to play in American foreign policy.

And, again, let me just state as I have said many times before, if America does not have a human rights agenda that is important to our Government and important to our people, then what is America all about. And this is what keeps our country nothing more than an amalgamation of people who came here to make money. And the fact is people came here to our country because

they believed in freedom and liberty and we have been a shining light in the world. I would hope that that is something that is taken very seriously.

During the election, President Clinton did suggest that he took that very seriously. And I remember very well he condemned President Bush who was President at the time for not being tough enough with the Chinese, especially concerning this Most-Favored-Nation status. Now I know he was very serious then and he would not be changing his position now. And we are going to be watching very closely just exactly what he does. This is where we find out what people really believe when you have to face a decision that is going to be costly. And this will be a costly decision.

I have had to look at people in my district who deal with China and have come to me and said, "Dana, this is going to cost jobs in your district. It is going to be harmful. If we do not have Most-Favored-Nation status for China, we are going to lose this contract and this contract." And I have had to look them right in the eye and say, "This is the right thing to do. It is not right for us to make money from a regime that is murdering its people and killing, forcing women to kill their babies and putting anybody in jail who speaks up against the regime." I think the United States—and I tell them, "You will have to vote against me if it means that much to you." And I think we all have to look at each other and say, "We are the ones who are determining what America is all about." And I think nowhere is that going to be more clear than the decision we make on Most-Favored-Nation status in these next few months because we have drawn the line in the sand, we have made our stand and if we back down from it, the world will know and especially the Chinese leaders of the gang that rules the mainland of China now, they will know that we really were not serious all along, unless we stand up for what we, ourselves, have said are our own standards.

Thank you very much, Mr. Chairman.

Mr. LANTOS. Thank you very much. I am delighted to call on the ranking Republican of the full Foreign Affairs Committee, a long-time champion of human rights, Congressman Gilman of New York.

Mr. GILMAN. Thank you, Mr. Chairman. Thank you for conducting this hearing and for the ranking minority members of our three subcommittees who have gathered together today, and I want to welcome our two expert witnesses, Ambassador, or now Assistant Secretary Winston Lord, and our good Assistant Secretary for Human Rights, John Shattuck, both of whom have gone to China recently and both of whom have tried to stress our concerns.

The MFN will be coming up I guess within about 10 weeks before us and the Secretary of State has to determine then if the Communist Chinese Government has made any significant progress in the areas outlined in the President's Executive order. Accordingly, this is a timely hearing for all of us.

There are two "must do's" in the Executive order in five areas where the Secretary has to determine whether China has made overall significant progress. And I will not get into them all, but I would like to touch on one or two of them.

The one "must do" has to do with prison labor. The administration's position is pretty much summed up by the following. In August 1992, the United States signed a Memorandum of Understanding under which the Chinese agreed to investigate cases we presented and to allow our officials access to suspect facilities in China. And during Secretary Christopher's recent trip agreement was reached on a joint declaration to end exports to the United States of goods produced by prison labor.

Our Nation also received concrete assurances on inspections of all suspected Chinese facilities within strict time limits. I know the gentleman from New Jersey visited some of those facilities not too long ago and came back and reported to us. The fact is that in August 1992 the administration signed an MOU with the Chinese that would require them to promptly respond to our request for visits. Not inspections, but visits. And during late August of 1992 the administration requested to visit five sites, but was not allowed to visit one inconclusively.

It is my understanding that the new agreement dropped the requirement for promptness and would give the Chinese 60 days to allow us in. They can do a lot, of course, in a 60-day period.

Last May it was reported that two Chinese prisons exported to our Nation millions of dollars worth of automobile chain hoists. The Commerce Department is still looking into that case and I question where is the significant progress with regard to that issue.

And on the Executive order's condition of releasing, respecting, accounting for political and religious prisoners, the administration position is summed up as follows. China has provided our Nation with names and information on whether some 235 prisoners of conscience are still in prison and for the first time promised to provide information on the status of the imprisoned Tibetans. Is this minimal amount of information supposed to be considered significant progress or just another well aimed insult at those among us who seek to assist pro-democracy advocates. The promise of information—and let me underscore it is a promise of only information, not release—regarding 106 Tibetans which represents only 25 percent of the known nonviolent Tibetan political prisoners held in Lhasa alone, is a promise of information on 25 percent of a small portion of the larger Tibetan gulag to be considered significant progress? And how many more hundreds are still being held out there? And is information on only 235 Chinese political prisoners considered significant? The Chinese Government itself gave the figure of 3,317 sentenced counter-revolutionaries; 235 is just a mere drop in the bucket, 14 percent of what the Communists themselves claimed to have sentenced. Is that considered a positive factor when reviewing the equation on overall significant progress?

Regarding the Executive order's condition on the protection of the unique central and religious heritage of occupied Tibet, the administration chose to weigh progress in that area by urging negotiations between His Holiness, the Dalai Lama or the Tibetan Government in exile and the rulers of Beijing. And Beijing has said that it would entertain such negotiations only if Tibetan independence is not on the agenda.

Well, His Holiness, the Dalai Lama has said repeatedly that independence is not on his agenda. And only 2 weeks ago in a let-

ter to congressional leadership, His Holiness repeated it once again. And there does not seem to be any progress on that front.

It is obvious, Mr. Chairman, there has been no progress made in these issues that I have reviewed and including the one "must do" item. We do not have the time now to refute the supposed progress in other areas, but it is just as easy to do as I have done with the others already mentioned. Accordingly, I submit that unless the administration claims that the release of those high-profile activists who were temporarily arrested while the Secretary of State was recently visiting China is overwhelming progress, I just do not see how any progress whatsoever can be claimed. And I thank you, Mr. Chairman.

Mr. LANTOS. Thank you very much.

Finally, I would like to call on my very good friend and colleague from Maine, Congresswoman Snowe.

Ms. SNOWE. Thank you, Mr. Chairman.

I would just like to welcome our witnesses here today in what is obviously a very timely and appropriate committee hearing to explore the extension of the MFN status to China. I certainly am very troubled by the continuation of the atrocities that have occurred in China and simply cannot ignore them. I think it would be abrogating our responsibilities as a leader of the free world if we did. I appreciate the fact of the timeliness of this hearing because I do think it is critically important we begin to grapple with this issue once again in Congress. Thank you.

Mr. LANTOS. Thank you very much.

Secretary Lord, Secretary Shattuck, we are delighted to have you here today. Your prepared statements will be entered in the record in their entirety. You may proceed any way you choose.

STATEMENT OF THE HONORABLE WINSTON LORD, ASSISTANT SECRETARY OF STATE FOR EAST ASIAN AND PACIFIC AFFAIRS

Mr. LORD. Thank you, Mr. Chairman and members of the committees. It is good to be back here with these panels.

Mr. LANTOS. Could you pull the mike a little closer?

Mr. LORD. Sure.

I appreciate the invitation to testify before you on our policy toward China. As you have indicated, we will submit the full text and I will read some excerpts from my statement.

Our relationship with the most populous nation on earth is one of our most important. I will outline some of the reasons for that importance.

In the spring of last year, the administration at the President's direction consulted closely with Congress on how to both advance our human rights goals and shape constructive relations with this large nation. The result of these consultations was the President's May 28, 1993 Executive order, which approved renewal of China's MFN status and linked a further extension in 1994 to certain realistic and obtainable human rights criteria. At the same time, the Executive order stipulated that U.S. trade and nonproliferation goals would be pursued through instruments other than linkage to MFN.

The Executive order set forth two mandatory requirements, emigration and prison labor exports, and required the Secretary of State to base his recommendations for a further MFN extension on whether China had made overall significant progress in five other human rights areas.

Members of both parties joined in supporting the Executive order in this first show of congressional and executive branch unity on China policy since the crackdown on peaceful demonstrators in 1989. They praised the Executive order for providing the appropriate balance between pursuing America's human rights goals and engaging China in other spheres. The signing of the Executive order at the White House—and I was there and I believe some of you were there—brought together Members of Congress with widely different views, business and human rights representatives, Chinese students and a Tibetan spokesman. The balanced approach forged by the President received broad support from across the political spectrum and across the nation.

I just cite that against the backdrop of today's debates.

Immediately following the issuance of the Executive order we initiated a dialogue with China on steps that would be necessary to renew China's MFN status this year. We continue to monitor human rights practice in China and we issued the annual report. Mr. Shattuck can go into more detail on that as well as other issues.

In September 1993, the President approved an expanded strategy of comprehensive engagement with China aimed at addressing the full range of issues of concern from human rights to trade and non-proliferation to regional and global matters. The President's decision followed an extensive interagency policy review that confirmed that a healthy constructive relationship with China was essential for long-term U.S. interests. By widening the scope and raising the level of our dialogue on issues of mutual concern, we sought also to give China the incentive and the latitude to move forward on difficult topics.

We opened a variety of channels and negotiations and visits. And I mention several of these in my statement including on other tracts, we have conducted study exchanges on global and regional issues, in particular, the North Korea nuclear challenge.

In its own self-interest, China has weighed in with North Korea in support of international diplomacy to resolve this question. The IAEA has now referred this problem to the United Nations where we look for China's cooperation together with a strong global consensus.

Within this broader framework we have also worked to advance our human rights goal. And I outline the fact that Secretary Christopher met with his counterpart five times in five different cities. The President has met with his counterpart in Seattle. Assistant Shattuck has had a continual series of meetings and I think significantly a detailed business-like one he held in Beijing even as the Chinese were denouncing him on the outside, they were talking to him on the inside.

We have had Cabinet secretaries and many others going back and forth. And I want to stress that the administration has care-

fully screened and coordinated all visits at or above the Assistant Secretary level.

This brings me to the Secretary's trip which both of us were on, March 11 to March 14, when he met with the Chinese President, Premier and Foreign Minister to carry the message directly to Chinese leaders on the need for further improvements on human rights as well as our readiness to go to a more constructive relationship. And I commend to the committees and, indeed, to a wider audience the Secretary's March 22 editorial in the *Washington Post* which outlines our strategy toward China and the purposes and results of his recent trip, and I ask that the text of this article be included in the record.

Mr. LANTOS. Without objection.¹

Mr. LORD. Contrary to a persistent canard, the Chinese had been urging the Secretary for 5 months to go to Beijing. They never asked us to postpone the trip because of the National People's Congress. They only asked that we not arrive on March 10, the opening of the Congress. The Secretary adjusted his arrival by one day to accommodate that request.

Some observers have questioned the appropriateness of the Secretary going through with this trip in light of the deplorable Chinese detentions of activities just before his arrival. Others have failed to notice that some progress was made despite the negative atmosphere surrounding the discussions in Beijing. I believe such criticisms miss the mark. To have postponed the trip with less than 3 months before the MFN decision would have risked a serious deterioration in our relations and would have deprived us of an important opportunity to press our concerns. So this gets to the concern of mixed messages that several of you have noted. And the main reason the Secretary went ahead, and frankly we debated whether to go ahead, was to get to the Chinese leaders at the highest level a clear reaffirmation of the President's policy on MFN, to cut through any mixed messages that may have been emitted. And I may add in a high level meeting earlier this week this policy was reaffirmed.

Mr. LANTOS. May I stop you there for a moment, Secretary Lord?

Mr. LORD. Yes.

Mr. LANTOS. On the front page of the *New York Times* today there is a major article titled, "U.S. Signals China It May End Annual Trade Rights Battles." In this article, the following paragraph appears. "Administration officials are increasingly arguing that the current policy is outmoded because as the President has told aides and lawmakers in recent days, the last thing Mr. Clinton wants to do is withdraw China's trade benefits."

Is this article accurate? At least is the statement accurate?

Mr. LORD. Not as you have presented it, no, Mr. Chairman. Let me reaffirm—

Mr. LANTOS. I read it.

Mr. LORD. Yes. Not as you read that excerpt. Correct. That is not accurate. I am not saying the whole article is inaccurate. I am saying the thrust and what you are citing is inaccurate.

¹The article appears in the appendix.

Let me address your question directly. As I was just saying, there was a high level meeting a couple of days ago in which the President's policy of carrying out the Executive order was reaffirmed. There has been no secret that from the beginning that the preferred outcome I believe for everyone on this panel, as well as for the President and the rest of Congress, would be to renew MFN if sufficient progress was made. I do not think anyone wishes to see MFN revoked. Different people have different views on whether it is an appropriate instrument. So we have said from the beginning, publicly as well as privately, that we would like to see the kind of progress which would allow the President to renew MFN and if that progress continues, then in the future maybe MFN would not be so central to our debate on China policy.

You recall on the Jackson-Vanik this issue comes up every year before the Tiananmen massacre, it was passed by both Houses and the President rather routinely.

Now what that article is discussing essentially is in the future tense of what people would be debating if sufficient progress were made. I would recommend to everyone that we focus on the next couple of months, otherwise these other questions are academic.

So the President's policy remains the same. It was reaffirmed at this high level meeting and to the extent that that article speculates that it has been changed, it is flat wrong. To the extent that it is talking about the future tense and what future options might be, that depends on how we do in the next few months.

Mr. LANTOS. Thank you very much.

Mr. LORD. By going to Beijing, the Secretary ensured that China's highest leaders heard directly the President's resolve to carry out his policy. And as I was saying, the main purpose of continuing with the trip despite the atmosphere was to directly carry this message and cut through whatever confusing signals may have been emitted.

On the one hand, Secretary Christopher expressed the U.S. desire for a more positive relationship based on bilateral, regional and international issues of mutual concern. At the same time, the Secretary made clear the need for more progress on human rights. And he spelled out once again in detail the reasonable steps needed to fulfill the requirements of the Executive order.

As a result of the Secretary's trip, China's leaders should have no doubt that we are serious about implementing the President's Executive order and that Chinese complacency is not an option. At the same time the Secretary sketched the great potential we see for our relations. The exchanges on human rights were frank and reflected sharp differences over basic concepts. By the third day they became more businesslike and produced some progress.

Secretary Christopher handled a difficult situation with great strength, dignity and discipline. He achieved a narrowing of some differences and encouraged the Chinese to take additional steps in areas identified in the Executive order.

Now we also discussed other issues on this trip: trade, non-proliferation, very importantly the Korean issue, Indochina, Hong Kong, but you will understand that most of the time was taken up on this issue of human rights given the calendar and given the im-

portance of the issue, but I would be glad to respond to questions in those areas as well.

We will neither inflate nor denigrate the progress made before and during the trip. Hard work lies ahead. But the Chinese now know clearly what we have in mind and if Beijing truly shares our vision of a more constructive relationship, the required progress in human rights can be achieved.

Before the end of May, the Secretary will make his recommendation to the President on MFN renewal, and I spell those out as others on the panel have done, and in the meantime we will continue to seek further movement and evaluate Chinese actions.

The MFN renewal is certainly obtainable and within China's reach. The requirements established by the Executive order are clear and reasonable. We are not seeking to transform Chinese society, neither are we seeking to impose American prescriptions. What we are looking for are positive trends toward recognition of universal human rights. We ask only that China as an emerging great power, an important actor in the global arena, agree to abide by accepted international norms. The United States is prepared to do its part to build a constructive relationship and promote China's integration into the world community.

In the future—and this gets to the question you asked—we hope that the annual debate on MFN would be less central to our China policy, but our primary objective now must be to obtain progress that will enable us to renew China's MFN status and continue to build a healthy relationship that will benefit both countries.

In conclusion, Mr. Chairman, congressional support for the President's policy has remained steady and strong. Last month almost two-thirds of the Senate voted to support the President's Executive order and his approach toward human rights in China. And on the eve of the Secretary's visit 2 weeks ago, 275 Members of the House of Representatives sent a letter backing the President's efforts to achieve progress on human rights.

President Clinton's policy toward China keeps faith with American ideals and keeps focused on American interest, that essential balance is at the heart of the consensus, we have achieved with the Congress and the American people, it must remain at the heart of our Nation's relations with China. Thank you, Mr. Chairman.

[The prepared statement of Mr. Lord appears in the appendix.]

Mr. LANTOS. Thank you very much, Secretary Lord.

Secretary Shattuck you may proceed anyway you wish.

STATEMENT OF THE HONORABLE JOHN SHATTUCK, ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Mr. SHATTUCK. Thank you very much, Mr. Chairman.

I, too, have a prepared statement which I will submit in its entirety for the record. I will cover excerpts from it and, of course, be very pleased to respond to your questions about aspects of our testimony.

I thank you and the distinguished members of the subcommittee and all three subcommittees very much for the opportunity to appear before you. As you know, our relations with China are a topic

of broad interest and very vigorous debate, particularly at the moment.

In my testimony today I am pleased to join Assistant Secretary Lord in his review of our policy toward China, and to provide some additional information about the human rights components of this policy.

I will not repeat Mr. Lord's review of the policy in any depth, but the context for the policy is well known. And I would like to briefly cover that.

As our report to the Congress of 1993 makes clear, China's human rights record has fallen far short of internationally recognized standards since the suppression of dissent in China in the spring of 1989. Continuing abuses such as torture, detention and imprisonment of individuals for political and religious speech and repression in Tibet have served to reinforce the President's commitment to human rights as a major element of our policy toward China. President Clinton's policy linking MFN and human rights was established in the spring of 1993 as a realistic, effective means of balancing our human rights objectives with the array of other goals and interests in our broad and complex relationship with China.

Over the course of the last 8 months, we have established an intensive dialogue with China on a wide range of issues in our bilateral relationship, including human rights. To help implement this approach, I have established a regular channel of communication with my counterparts in the Chinese Ministries of Foreign Affairs, Public Security, Justice, Family Planning and Health and in the Bureaus of Religious Affairs and Minority Affairs. I have made three trips to Beijing and have also travelled to Lhasa, Guangzhou, Shanghai and Chengdu, and have held meetings with Chinese officials in Washington, New York, and Seattle to discuss human rights issues. The most productive and businesslike of these meetings, as Mr. Lord indicated surprisingly, was on the second day of Secretary Christopher's recent trip to Beijing. I met for nearly 4 hours with Assistant Minister of Foreign Affairs, Qin Hausun, and prepared the way for the Secretary's final meeting with Foreign Minister Qian Qichen the following day, when, as the Secretary has stated, we began to narrow our differences.

As you know, the human rights issues have been on Secretary Christopher's agenda in his five meetings with Chinese Foreign Minister Qichen, as well as his recent meetings in Beijing with President Zemin and Premier Li. A highlight of this engagement with China on human rights was the meeting in Seattle last November between President Jiang and President Clinton, at which President Clinton emphasized the importance of overall significant progress on human rights in China if MFN is to be renewed.

As a result of these 8 months of intensive engagement with China on human rights and on many other issues, the Chinese have taken some steps in the right direction, although we have not yet seen the overall significant progress we are looking for.

To put our discussions with the Chinese in perspective, we have for the first time entered into a serious and sustained dialogue in which we have candidly explored our differences and sought areas of understanding and agreement. We have explained in detail what

is meant by President Clinton's Executive order, and we have succeeded in putting in play each of seven criteria for progress specified in the Executive order. More progress is needed, and I believe it can only be made if we stay the present course.

Let me review each of the seven conditions in the President's Executive order and summarize what has occurred to date. In doing so, I want to stress that I am not giving an evaluation of what has occurred. I will be instead be giving a statement of facts which I would be happy to go into in further detail in answer to your questions. But I want to stress that the evaluation will be given when the MFN decision is made.

The first condition is a mandatory one derived not only from the Executive order but also from the statutory requirements of the Jackson-Vanik legislation concerning freedom of emigration. Under this condition, the Secretary must determine that, "extension will substantially promote the freedom of emigration objectives of the Act," before recommending extension.

Throughout our discussions with the Chinese, we have pressed for the resolution of cases of family members of dissidents and others who have been unable to leave China. In his meetings in Beijing earlier this month, Secretary Christopher was informed by Foreign Minister Qian that these cases, "would not be a problem" and that the cases "would be handled in accordance with Chinese law." We are encouraging the Chinese to resolve the remaining cases in the near future.

The second condition is also mandatory. It requires the Secretary to determine that "China is complying with" an earlier bilateral agreement concerning prison labor. Lengthy negotiations on this issue were concluded earlier this month, and the United States and China signed a Joint Declaration at the time of Secretary Christopher's meetings in Beijing to end exports of goods produced by prison labor as mandated by U.S. law.

The agreement involved, and I would be happy to go into it in further detail in your questions, significantly stricter standards than the earlier agreement. We are now moving to its strict enforcement.

The other five conditions in the Executive order require the Secretary to determine "whether China has made overall significant progress with respect to the following: taking steps to begin adhering to the Universal Declaration of Human Rights; releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the nonviolent expression of their political and religious beliefs, including such expression of beliefs in connection with the Democracy Wall and Tiananmen Square movements; ensuring humane treatment of prisoners, such as by allowing access to prisons by international humanitarian and human rights organizations; protecting Tibet's distinctive religious and cultural heritage; and permitting international radio and television broadcasts into China."

The record of progress to date in these five areas has been less satisfactory, although the Chinese have taken some positive steps. Let me review what has happened so far in each area. Once again, I am not offering an evaluation, but a statement of facts.

Chinese authorities have stated that China supports the Universal Declaration of Human Rights, but as the State Department's 1993 report on China indicates, China's record on human rights falls short of internationally recognized standards. Although a few dissidents have been released, others have been detained or arrested. While some dissidents and their family members have been allowed to leave China, labor activist Han Dongfang has not been allowed to return. Recent harassment and detentions of Christians who have sought to practice their religion outside of official channels are disturbing.

The Chinese have released some political or religious prisoners, such as Wei Jingsheng and Gendun Rinchen and Lobsang Yontan, but others, such as Fu Shenqi, Li Guiren, and Qin Yongming and others have been rearrested, and most of those whose release we are seeking on the grounds of ill health remain in prison. The Chinese have provided limited information on about 235 human rights cases in response to lists we have given them, and have promised information on the cases of 106 Tibetans detained in 1993.

With respect to allowing access to prisons and prisoners by international humanitarian organizations, Chinese authorities met with representatives of the International Committee of the Red Cross in January. The Chinese have now agreed to hold new talks early next month with the ICRC at the expert level.

With respect to protecting Tibet's distinctive cultural and religious heritage, there has been no significant movement. The Dalai Lama's brother visited Beijing last summer, but the trip was apparently not productive. Substantive, productive talks with the Dalai Lama or his representatives have not occurred.

With respect to international radio and television broadcasting, the Chinese have agreed to receive and review technical data on the reception of VOA signals, but selective jamming still occurs. Regulations proscribing satellite dishes exist, but are evidently not being enforced.

In conclusion, Mr. Chairman, let me review that Secretary Christopher made very clear to the Chinese leadership our view that more needs to be done and that he would closely watch and evaluate events of the next 2 months in preparing to make his recommendation to the President. As the Secretary wrote earlier this week in the *Washington Post* and as I can certainly testify in considerable detail, anyone who has worked to advance human rights knows that it is tough slogging work and that progress usually comes only in incremental stages. I will not invent nor inflate that progress. With that in mind and with the strong support of the Congress, we will continue to work within the framework of the President's Executive order to achieve further progress.

Thank you very much not only for your interest in this subject, but for your support and interest in human rights throughout the world.

[The prepared statement of Mr. Shattuck appears in the appendix.]

CHINA, HUMAN RIGHTS, AND MFN STATUS: QUESTIONS ON INTERNATIONAL COOPERATION, DELINKAGE, AND IMPACT OF POSSIBLY WITHDRAWING MFN STATUS

Mr. LANTOS. Thank you very much gentlemen. We will begin the questioning. Then we shall pause briefly while we cast our votes and then continue. I want to commend both of you for your statements. And I, again, want to express my appreciation for your principled stand on this very important issue and the equally principled stand of the Secretary of State.

I have basically three questions to begin with. The first one relates to the performance of our allies. It seems to me that if our friends and allies, who are also major economic partners of China, would show anywhere near the degree of concern for human rights, we would be able to succeed in achieving our goals without any difficulty.

It has been a matter of profound disappointment to me that, as on so many other issues, our major European allies and Japan show a very high degree of disinterest in improving the condition of 1,200,000,000 people in China. I would like to ask you to comment on the extent of which we have attempted to obtain cooperation from our allies and the extent to which we have received or failed to receive that cooperation.

Secondly, I'd like both of you to comment on the issue of delinkage. Delinkage is the new buzz word associated with U.S. policy toward China, and I would like to ask you to put some substance on this sterile and meaningless phrase. We now have linkage between trade and human rights, Most-Favored-Nation treatment and human rights. People say that what is called for is delinkage. I would like to know how people who advocate delinkage see the substitution of other mechanisms that would provide us with comparable leverage in dealing with the Chinese; clearly MFN does. It is not enough for parrot-like to say, "Delinkage. Delinkage. Delinkage." The question is: "What is to be put in its place?" I have yet to hear and I hope I will hear from you, gentlemen, meaningful and comparable items of leverage which would be as important to the Chinese as MFN is and where our ability to activate other policies would be fully within our own purview. Persuading, for instance, international banking institutions to change their lending policies—vis-a-vis China—is not very helpful if other countries do not go along with our recommendations. MFN status is within our own power to grant or to deny. I would like to know what those who favor delinkage propose as alternate avenues equally within our own power to activate or deactivate.

The final question I would like to ask you to address is the impact on China and the impact on the United States should MFN status be revoked at the end of May. The Library of Congress at our request studied the statistics on this issue and this is their conclusion. I will try to be as careful as possible in using these figures.

In 1993, which is the last year for which trade figures are available, U.S. exports to China amounted to \$8.7 billion. Chinese exports to the United States amounted to \$31.5 billion—a difference of almost \$23 billion. So the Chinese enjoy a \$23 billion trade surplus with the United States.

If you take a look at the last 6 years, you will find that our exports to China, contrary to all the propaganda we hear and read, increased very little. Six years ago we exported over \$5 billion to China. And that year we imported over \$8 billion. So the trade deficit was only \$3 billion. And every single year since then, while we have had some increases, one year we actually had a decrease. Those increases are nowhere near as significant as the increase of Chinese exports to the United States. We have had a very modest increase in U.S. exports to China. And we have had an explosion of exports from China to the United States. If you take the last 6 years combined, we have a combined trade deficit of \$71 billion with China.

Now one does not have to be a professional economist, which I happen to be, or a mathematical genius, which I am certainly not, to recognize that the impact of revoking MFN would be infinitely greater on China than it would be on us. We are a vastly greater fish in the Chinese pond than they are in ours. So when we return, I would be grateful if both of you would address these three initial questions and in the meantime the subcommittees will stand in recess.

[Recess.]

Mr. LANTOS. The hearing will resume and we would be very happy to hear from you, Secretary Lord.

Mr. LORD. With respect to your questions, Mr. Chairman, and John Shattuck will certainly help me to answer these, the first question about dealing with our allies and the question of pressing human rights in China. We have tried extremely hard and I have personally tried hard, as has the Secretary, including, for example, on his trip to Australia and Japan before going into China, but just generally to get help from our allies on this question. So the first part of your question, have we tried? We did. I have met sometimes collectively with our partners, individually as has the Secretary and others, but the results frankly I think are disappointing. Some of them do raise it. I do not want to start giving a scorecard to each ally. Some have complications. Like the British are very good on human rights, but they have got this Hong Kong situation which dominates a large part of their agenda.

Clearly, our allies put a higher stake on commercial objectives relative to human rights than we do. This is not to say it is right or wrong, people can disagree, but it is a statement of fact. It does not mean they do not raise human rights with the Chinese. I believe they do. But let us say that the rhetoric is probably rounded off a lot more than some of our rhetoric although we try to be always respectful and dignified about it. But I think it is fair to say we raise this issue more forcefully than any of our allies.

The most recent example is Prime Minister Hosokawa's trip to China. He did raise human rights along the lines we asked him to in his private discussions. Now there are reports in the papers, however, about his saying something to the effect of countries should not impose Western democracy in other countries. Something to that effect. I want to get a full explanation of that. I believe that was in a dinner conversation. But, again, I do not have the full readout yet. I do want to say he raised human rights in a private discussion.

I do want to make the point also, however, that no one is seeking to impose democracy if that is what is floating around. I tried to make clear in our statement as has Mr. Shattuck as he goes over these criteria that these are reasonable and obtainable objectives, looking for positive trends and focusing on human rights, not telling them they have to have an American democracy in a couple of months. So I do not think we should fall victim to the belief that we are trying to impose our way of life. We are trying to get positive trends in China toward universal norms and behavior, not some arrogant American moral crusade.

On the question of delinkage, again I have lost my colleague here, I hope he comes back in a hurry. Let me make a few specific comments on that. First of all, there is going to be no delinkage between now and June 3. I want to get that straight. Let us get the calendar straight. We have an Executive order that is the law of the land. The President is carrying it out. All his top advisors reaffirmed that a couple of days ago. So that is not the question.

Mr. LANTOS. Could I interject a question at that point?

Mr. LORD. Yes.

Mr. LANTOS. The counselor at the State Department testified almost 2 months ago before this subcommittee that he was asked what would the decision be if the decision had to be made today. He indicated that as of that date the decision would be negative.

Now we are at the end of March. If you were to make the recommendation as of today, Mr. Secretary, what would be your recommendation as of today?

Mr. LORD. Well, we have made it very clear that more progress is needed. This is up to the Secretary and I will make my recommendations to him at the appropriate time, but we are in a stage where we are now carefully evaluating and will continue to evaluate any progress in the next couple of months, so I would like to leave it at that.

Mr. LANTOS. Well, do I understand you to be testifying that, as of today, it would not be appropriate to extend MFN status on the basis of conditions in the field of human rights as they prevail in China?

Mr. LORD. Well, I am saying that we are evaluating it. I am also saying that more progress is needed and I would like to use that formulation, but I think the thrust of what I am saying is clear.

Mr. LANTOS. Well, I cannot make you say in plainer English what I would like to hear you say in plainer English. So let me interpret in my own modest way what you are saying. You are saying that you are evaluating their performance, which I take it is an ongoing process. And you are saying that additional progress is required. So the progress thus far, if any, is clearly insufficient. Am I interpreting you correctly?

Mr. LORD. Well, I would think if more progress is needed that means that it is not yet sufficient.

Mr. LANTOS. Very good. I thank you.

Mr. LORD. Now, let me go on. So any talk of delinkage, we are talking—

Mr. SHATTUCK. Mr. Chairman, I had a poster like that.

Mr. LORD. What did he say?

Mr. SHATTUCK. I had a poster like that. [Laughter.]

Mr. LORD. Any talk of delinkage is in the future tense and we have got to get in any event up to and through June 3 and then one can have whatever talk one wants.

Let me say the following. It gets confusing and I am glad you asked this question because there is going to always be some kind of linkage as far ahead as I can see. For example, Jackson-Vanik legislation has as a minimum linkage to emigration. It has been there for about 20 years. And, therefore, I do not believe the Congress is in a mood to repeal Jackson-Vanik. It applies to many countries besides China. So by definition every year we are going to have to decide whether to renew MFN in China and at least the emigration linkage will be there specifically.xxx

Now, as you know, this is a rather routine extension up until Tiannamen Square as I think I mentioned. In addition, I think when people say delinkage, and I do not want to put words in their mouth, but they are generally talking about specific conditions. I think that is what they mean. Some people would not want to have even a general progress being required. But most people are saying we do not want specific conditions because even with the best possible outcome, with sufficient progress between now and early June, I would imagine the Congress and the executive branch, even if they decided that extension did not require specific conditions, would want to have some general caveat that continued progress is needed. I mean you cannot have great progress between now and June, have that barrier passed, and then suddenly have slippage in the future, slipping backwards without this issue inevitably coming up again. So in that sense, you are always going to have a need for general progress. You are always going to have Jackson-Vanik, the debate will revolve around whether you have specific conditions, but it is moot now. We have to concentrate on the next couple of months.

Mr. LANTOS. Let me pursue this a bit further. Let us take an objectively measurable phenomena such as the jamming of radio broadcasts. Now what is wrong in conditioning the ability of the people of China to listen to Radio Free Asia, the Voice of America as a requirement to receive Most-Favored-Nation treatment? I mean what is so objectionable in having our views and news presented to the people of China? Is that not a reasonable and specific condition?

Mr. LORD. Well, we think so. That is why it is in the Executive order. My colleague may wish to comment as well.

Mr. SHATTUCK. Well, I think it is exactly the kind of provision that the President had in mind at the time that he promulgated the Executive order.

Mr. LANTOS. And we applaud him for that.

Mr. SHATTUCK. We have been very vigorously pursuing the implementation of that condition. And as I indicated, there has been some development in that area.

Mr. LANTOS. What do you mean by some development?

Mr. SHATTUCK. I just mean simply that the Chinese have agreed to review the information that we have regarding the jamming or the difficulty in receiving the signal in China.

Mr. LORD. Let me elaborate on that. And, John, correct me if I get this wrong. The Chinese claim they are not jamming VOA.

They say there is a lot of radio frequencies interfering with each other and it is sort of a technical problem. We do not care what they call it if we can make progress. So we have said we think you are jamming, but if you want to call it a technical problem, that is fine with us. We will give you the information so we can sit down and let us try to resolve the technical problems so that there is no more interference.

It is true that in many parts of China you can get Voice of America. It is true that many leaders, including from the Foreign Ministry, listen to it. It is also true that in certain hours of the day or certain frequencies in certain parts of China you cannot get it. They say it is technical. We say it is purposeful. We do not care about the debate; we will let them win the debate if we can make something of progress.

Mr. SHATTUCK. I think that is a very good summary of where we are on that subject. And as I indicated, we have I think for the first time, succeeded in getting their attention on the subject, to the extent that they are reviewing the information that we will be providing regarding the difficulty of receiving the signal.

Mr. LANTOS. Before you joined us, Secretary Shattuck, I raised the issue with Secretary Lord as to what your recommendation would be if the recommendation would have to be made today. You recall that Counselor Wirth indicated to this subcommittee 2 months ago that as of that date the recommendation would have to be negative. I wonder if you would care to share with us what your recommendation would be on the basis of the facts as they exist today?

Mr. SHATTUCK. Well, as I indicated in my statement, Mr. Chairman, we have presented the facts in a straightforward way as to exactly what has occurred. We have also indicated that there has not been sufficient progress.

Mr. LANTOS. From that I am concluding that your recommendation as of today would be negative?

Mr. SHATTUCK. What is required by the Executive order is that there be overall significant progress.

Mr. LANTOS. And that has not been——

Mr. SHATTUCK. And I think the conclusion is that there has not been.

Mr. LANTOS. I am very pleased that you are in accord with one another on that issue.

Would you care to comment on the final item?

Mr. LORD. Yes. Another part of the second question, I will let my colleague answer about other instruments that could be pursued, and then you had a question about the impact.

Mr. LANTOS. Yes. What is to take the place of linkage, Secretary Shattuck?

Mr. SHATTUCK. I did hear some of what my colleague said on that subject. I want to assure you that I did not stay out of the room just in order to be able to test myself as to whether I was going to be in sync with him. I think it is extremely important to emphasize two things. One, under the Jackson-Vanik legislation there is a continued linkage. And let me carry that a little bit further by referring to the preambular language in Jackson-Vanik, and I am quoting from the preamble: "In order to assure the con-

tinued dedication of the United States to human rights, the situation on emigration is addressed in Jackson-Vanik."

I think in addition, there is no question that continued progress on human rights is an essential part of our approach toward our China policy in general and our trade policy in particular. The issue of specific conditions of the kind that we were just talking about with regard to the receipt of international broadcasting or any of these other conditions depends very much on whether or not there has been overall significant progress with respect to those conditions in terms of whether they continue.

As far as the other kinds of elements of our human rights policy, vis-a-vis China, or any other country for that matter, whatever the outcome may be with respect to something like MFN, or any other policy instrument we may be choosing, we will be engaged across-the-board on a wide range of human rights initiatives. Vis-a-vis China, we are going to be very obviously and aggressively engaged, as we are right now on the international front, and at the United Nations. At the same time that I was in Beijing, we were pursuing the issue of a human rights resolution in the U.N. Human Rights Commission. We will be continuing, as we do in countries all over the world, to support the victims of human rights abuse in a wide variety of ways. But I think the important fact to state at this point without—

Mr. LANTOS. Your answer really does not satisfy me, if I may say so. There is currently a linkage between Most-Favored-Nation status and human rights conditions. And if the Most-Favored-Nation status is revoked, there will be a significant impact on China's economy. How significant, we will explore in a minute. Now, many in the business community and I presume some in the administration advocate delinkage of these two items. They do not want Most-Favored-Nation treatment to be dependent on human rights.

My question is what other forms of equally effective or hopefully more effective linkage are they proposing? Or is their suggestion just to trust in the good faith of the regime in Beijing?

Mr. SHATTUCK. Well, Mr. Chairman, I think my answer is that we are pursuing the President's policy on MFN aggressively at this moment.

Mr. LANTOS. As of now.

Mr. SHATTUCK. Yes. And I am also stating that whatever the outcome of this particular debate, we will be aggressively pursuing other policy instruments. I am not prepared at this point to say what a wide variety of other policy instruments might be in the event that the decision is made to—

Mr. LANTOS. Well, they are not secrets. I mean we are not dealing in the realm of high technology exports where we are revealing trade secrets. To the naked eye there do not appear to be other equally effective policy alternatives.

Mr. LORD. I think I would answer that—I mean some examples include United Nations resolutions which we are already doing, but obviously do not have a great deal of impact.

Mr. LANTOS. In the first place, the Chinese could veto United Nations resolutions, as a member of the Security—a permanent member of the Security Council. Second, they could laugh at United Na-

tions resolutions as so many other countries have. So it is very difficult—

Mr. LORD. No, no. I am—excuse me.

Mr. LANTOS. Please.

Mr. LORD. I am just saying I am agreeing that—as I was saying, we could not even get—with a very vigorous attempt we could not get a resolution through the Geneva Human Rights Commission. There was no veto there, we were just out-voted.

Mr. LANTOS. That's right.

Mr. LORD. World Bank Loans, voting on that, whether you restrict it to basic human needs would be another example.

Mr. LANTOS. And we could be outvoted there.

Mr. LORD. That is right.

Mr. LANTOS. So cite for me, either of you gentlemen another item which would be remotely comparable in its effectiveness to MFN.

Mr. LORD. Well, to try to be fair—you are asking us to answer the questions of other proponents. But I think if I were to speak for them what they would say is—and I am talking about those who are genuinely sincere about human rights. And there are some sincere people in the human rights who do not agree with this policy. We have to acknowledge that. There are also some who do not believe human rights is that important and it is a smoke screen.

Mr. LANTOS. And there are some who would not know what human rights are if they hit them in the face.

Mr. LORD. But I do think we should acknowledge that there are many people in this country in both parties who genuinely want better human rights in China and I think MFN is too blunt an instrument.

They have trouble answering your question, however. They would argue I guess that the MFN may be our strongest leverage but since it would also hurt us as well as China, it is not the right instrument. I think that would be their argument. They would say pursue everything else you can think of, but we sort of recognize it will not be quite as effective, but based on all our other interests with China, it is not worth invoking this huge instrument.

That is not my position. I am saying what the responsible critics would say. I think that is the answer.

Mr. LANTOS. Do you have anything to add, Secretary Shattuck?

Mr. SHATTUCK. Well, I think, Mr. Chairman, I would just add the obvious points about other things we do in our bilateral relationship with China, relations that we have in particular targeted trade areas, relations that we have vis-a-vis particular kinds of visits and particular aspects of engagement. We could cut those back. Relations that we might have or have contemplated with respect to military joint exercises and the like, or contributions—

Mr. LANTOS. These are such trivial matters, we have to admit. We have also to admit that if we give up this instrument, there is nothing to put in its place. Now it may still be the view of the majority within the administration or within the Congress sometime in the future that we should abandon this instrument. But if that happens, I think we should do so with our eyes open and not pretend that there are these wonderful other instruments more carefully crafted and equally effective. Those things do not exist.

Mr. LORD. I would certainly not quarrel with that. Let me say again I am not here to present the other point of view, but those who sincerely believe it is a blunt instrument would also say that you heard Hong Kong and Taiwan and some innocent bystanders, they would, of course, say you hurt American business interests, but you also hurt Chinese business interests. They would also say that you hurt sometimes the private enterprises in China or the economic process that helps to loosen up the society. Again, I am presenting the arguments on the other side. I think it is only fair to acknowledge that reasonable people can debate this. I frankly debated it in my own mind over the years before I came to the conclusion, the same conclusion the President did.

Mr. SHATTUCK. Mr. Chairman, if I could just add one other word on this. The way I look at it is there is a kind of Hobbesian choice in this contrast, although I think clearly the policy is extremely important with respect to the use of the trade lever or the improvement of human rights. But I think there is no question that carefully crafted policies may not be as effective. On the other hand, we cannot see with any degree of certainty precisely what the effect is of the MFN instrument, but it is the instrument that we have and it is the instrument that we are using. So I think that is the most important point today.

Mr. LANTOS. The final item is what would be the economic impact on China and on the United States if a revocation were to take place?

Mr. LORD. There have been studies and what I would recommend, Mr. Chairman, is that at your convenience or any other members of the subcommittee that we share these studies with you. I frankly do not have the figures at my command and I am not sure whether some parts of this may be classified, but we will be glad to show you the studies that have been made.

Let me make more general comments. You have already pointed out there is a \$23 billion trade surplus and the fact we take almost 40 percent of their exports. This does suggest when people keep saying the United States is in a box that there is a lot at stake here for China as well.

Now I would argue it is not just economic. China has geopolitical interest in having a good relationship with us, both as a major power and in terms of some of their regional and local security concerns in a subtle way, not a crude way. But I think they have geopolitical as well as economic incentives to have good relations. I do think they want good relations. They have a strange way of showing it sometimes, but I really do. For example, I do not believe the primary purpose of rounding up activists on the event of the Secretary's trip was to humiliate the Secretary. I believe it was related to their domestic political scene and what they construe as stability. I do not think he went out of their way to insult the Secretary of State. That does not make what they did any more agreeable. It was very disagreeable, but I think they want good relations and I think they did these arrests despite the Secretary's coming rather than because of his coming. That is not to excuse it; I am just trying to explain it.

The point I am trying to make is both sides would be hurt if MFN were revoked. That is why we have said, you have said, peo-

ple across the spectrum have said that the best outcome would be if sufficient progress were made so we could renew it. It would have an impact on us economically. It is hard to judge, even as it is for the Chinese because you do not know how much the Chinese would retaliate, in what sectors. You do not know how producers and exporters could adjust and how they could find third party markets. But I think it is fair to say at minimum we are talking several billions of dollars perhaps on both sides. That is a rough figure, but we can show you more detailed studies.

Mr. LANTOS. Thank you very much. Before I turn to Chairman Ackerman, let me express my appreciation to staff who prepared this hearing, Beth Poisson, Andrea Nelson, and Mike Ennis. Chairman Ackerman.

CHINA AND FREEDOM OF SPEECH

Mr. ACKERMAN. Thank you very much, Mr. Chairman.

Let me first say that I think that too much has been made as to whether or not anybody insulted the Secretary. I think that is their right. I think people here do it all the time. I think people insult us. I think people make political hay out of everything. I have heard it from the other side of the aisle trying to embarrass the Secretary and the President and other people in the administration and I think that is their democratic right. I have heard from a member on this side of the aisle that the Secretary should resign. And I have heard nobody raise the issue that we should have retribution toward our Republican colleagues or our Democratic associates for exercising their freedom of expression and freedom of speech. And, indeed, if one of our objectives is to encourage freedom of speech in China, why on God's earth should we be criticizing the President of China because he was critical or said the Secretary was silly in his actions or something else in line with exercising his freedom of speech. I think the more we hear from Chinese leaders, criticism of other leaders is an indication to people that it is OK to criticize. And I think that within that act alone there are, believe it or not, the seeds of democratization as ironic as that might appear.

Mr. LORD. Excuse me, Congressman, I was referring to the arrests not the language. I mean the fact that many observers in this country have said it was insulting to the Secretary to arrest these people before he arrived.

THE LANGUAGE OF U.S. FOREIGN POLICY TOWARD CHINA

Mr. ACKERMAN. I understand that, but we have heard this morning also in addition to what you said criticism of what I interpret as freedom of speech and expression as distasteful as it is for those of us who are political leaders to hear it about ourselves, we would never suggest that people be prevented or retribution be sought for those who do that. And I think we would probably set a bad example if we eliminated freedom of speech by political leaders of any kind, whether they are elected or not.

I am having some difficulty understanding what appears to be some perspective language changes that have been brought up on the agenda from some within the administration. And I do understand that the policy now is the policy now, but all of the signals

that we are receiving through the press seem to indicate that it is the view of the administration that a change will be made in the future. And I have heard the term as is current policy of significant progress being switched to something called general progress with regard to human rights. Is that a lowering of the profile of our human rights concerns or a lowering of the tone or a lowering of the language? I am sure if it is that specific a change, as fuzzy as that might be, that maybe you could explain to us what the indication means.

Mr. LORD. As I said earlier, there has been no change in our policy of carrying out the Executive order and we had a meeting of all the top advisors to the President with the unanimous view that our present policy will continue.

Mr. ACKERMAN. With all due respect, Mr. Secretary, you are referring to the current policy and I understand there is no change in current policy.

Mr. LORD. And no change in the adjectives. It is overall significant progress.

Mr. ACKERMAN. That is correct. Presently.

Mr. LORD. Right.

Mr. ACKERMAN. But the reports, and this is from the *Washington Post*, not that that means that it is necessarily any more accurate than anything else, indicate that a deal was offered to the Chinese. Under this proposal—I am quoting now, “The United States would soften its annual threat to revoke China’s favorable trade status because of the human rights disagreements instead of mandating specifics, the United States would require Beijing only to show general progress in human rights. For this year President Clinton has demanded overall significant progress including,” et cetera. Which indicates that even though we are sticking to our guns, which is absolutely right under the current law, we are offering, rather than going through this dance every year—and I might agree with that wholeheartedly, a change in the language to say general progress instead of overall significant progress.

First, is that the case? Is it accurate that we are looking toward that? And if so, what does that mean?

Mr. LORD. Right now we are looking to make the kind of progress to June so one can have those kind of debates. If we do not make the progress required to renew the Executive order, all this is academic.

Mr. ACKERMAN. Let me try again. Let us say we get to June and lo and behold we come to the conclusion that we have made overall significant progress. Is this indication that next we will be conditioning MFN to some general progress?

Mr. LORD. Well, if we make that kind of progress between now and June there will be probably several options considered and I do not want to prejudge what the President will do. But we have really got to focus on the present.

Mr. ACKERMAN. Is it accurate that we have offered that to the Chinese—

Mr. LORD. What we have been saying publicly and privately is we would like to get MFN out of the center of our debate. We would like to have in effect so that our entire China policy does not revolve around this annual debate. But we have got to get from

here to there, we have got to have progress and it is going to have to be continued progress after that. We have already indicated as a minimum you would have to have continued general progress. But all of this is really irrelevant until——

Mr. ACKERMAN. Continued general progress——

Mr. LORD. I am sorry?

Mr. ACKERMAN. Continued general progress rather than significant progress?

Mr. LORD. No. I said as a minimum. I do not know what we would do if we got to that point. Obviously when you discuss with the Chinese you want to not only indicate what the consequences are of not making progress, but you want to hold out some hope that this will be less central to our debate if they make genuine progress. But all of this is irrelevant until we get to early June. And then we will have to see. I do not want to prejudice what the President might do.

Mr. ACKERMAN. Under any set of definitions, and it is still very fuzzy to me and maybe getting fuzzier. There are maybe 65 days or so left between now and the decision time on MFN. If indeed overall significant progress has not been made to date, and certainly if it were, you would be wise not to so state it. No more progress would have to be made assuming that this formulation is correct. What specifically should or what specifically can China do within that 65-day window of opportunity to meet the standards that I still do not yet understand.

Mr. LORD. Let me ask my colleague to take his turn here. I will just make one point and that is the Chinese have a very good understanding of what we think is required. So there can be none of——

Mr. ACKERMAN. Can you share that with us so that we could have——

Mr. LORD. I will let my colleague take a crack at that, but obviously there are some things you would understand that we would rather discuss in private than in a public session, but I will let my colleague—I will gladly turn this over to him.

Mr. SHATTUCK. Well, Mr. Chairman, I think the specific actions that can be taken by the Chinese should be very clear from my testimony, but let me go back over the same territory. It is essential that the emigration cases that I have referred to be resolved.

Mr. ACKERMAN. I believe you referred to three cases?

Mr. SHATTUCK. No, I have not referred to three cases. I have referred to those cases that are now pending.

Mr. ACKERMAN. How many of those?

Mr. SHATTUCK. I think there are eight cases that need to be completed.

Mr. LORD. He did refer to three people that have been retained or arrested recently. That is probably what——

Mr. SHATTUCK. Yes.

Mr. ACKERMAN. So all of those eight cases would have to be resolved by the beginning of June?

Mr. SHATTUCK. Those are cases whose resolution we need by June. That is correct.

Mr. ACKERMAN. All of those. This is a package deal?

Mr. SHATTUCK. That is a statutory mandate. That is a requirement of the Jackson-Vanik legislation. That is right.

Mr. ACKERMAN. That all eight—Jackson-Vanik statutorily requires eight out of eight cases to be resolved?

Mr. SHATTUCK. Well, I mean it requires—

Mr. LORD. It would promote the freedom of emigration.

I really think we can—we are trying to be as forthcoming as possible, but I do not think it is useful—I would be glad to have private discussions as well, but there is just so far we can go in terms of precision when you are negotiating with another government at this point. But we would be glad to talk further in private if you would like.

Mr. ACKERMAN. Perhaps we should do that because I think we would like a clearer understanding of what the expectations are of the Chinese that meet the administration's requirement of significant progress.

LINKING TRADE WITH HUMAN RIGHTS IN CHINA

Could you help us in understanding or just telling us what other countries—and I know no other country has placed so significant a value on human rights as we have, but what other countries, even those who have a modicum of human rights interest or maybe a degree, have linked human rights or anything related to it to their relationship with China?

Mr. LORD. I do not know of any that have done that in any significant way.

Mr. ACKERMAN. We alone have done that?

Mr. LORD. Is that a fair statement?

Mr. SHATTUCK. I think that is a fair statement. There are many other countries that are engaged in the human rights dialogue with China. And in fact that was particularly intense just last month in the U.N. Human Rights Commission in Geneva. So then there are other countries that are engaged in a bilateral human rights dialogue with China.

Mr. ACKERMAN. Absent the linkage between human rights and MFN could we make as significant, less significant or more significant advances in the area of human rights using whatever spectrum of other means if we did not have linkage?

Mr. SHATTUCK. Well, I think as we have said in colloquy with Chairman Lantos, I think the fact of the matter is that at the moment the instrument that is being used and the one that seems to be the most effective at this time is the instrument of MFN. The situation could well change as a result of any number of factors inside China, but certainly the pursuit of a policy of linking human rights improvement to trade relations is the policy that we have chosen and the one that we think would be most effective at the moment.

Mr. LANTOS. If I may just interject. Secretary Lord will be leaving in just a couple of minutes.

Mr. ACKERMAN. Why do I not yield then to our colleague, Mr. Chairman, although I do have a lot of other questions.

Mr. LANTOS. I appreciate that very much, Congressman Ackerman.

Mr. LORD. I hope you will explain I am not leaving for frivolous reasons.

Mr. LANTOS. No. You are meeting with the majority leader and some of us.

CHINA AND POPULATION CONTROL

Mr. SMITH. Mr. Chairman, I have a number of questions, some of which I will submit for the record.

As you know, Secretary Lord, determinations by the President are very, very serious undertakings. They are almost sacred. It seems to me that the executive branch and the legislative branch's partnership rests on the trust and the confidence that those determinations of the President have to be absolutely honest, above board and well founded when they are made.

Just briefly focusing on the Kemp-Castings law which has had thus far exclusive application to the People's Republic of China. You may recall that that law said that no funds will be made to any organization that supports or manages a coercive population control program and there is the language put in there by Senator Inouye that it must be determined by the President, so that is a determination that has to be taken very seriously.

As you know so well, since 1985 both under President Reagan and then under President Bush, each year there was an annual review, a determination was made: one, that the population control program is pervasively coercive. It is not an exception or something that happens as a by-product. It is the means by which compliance with the one-child-per-couple policy is achieved. And, secondly, that the United Nations Population Fund activities was found to be complicit. It was impossible to find how they were not aiding and abetting that outrageous violation of women's rights and children's rights in China.

I had talked to and she also said it on the record on network television which I had put those transcripts in the record in the past, Dr. Sadik said, the head of the UNFPA, that the China program is, "Totally voluntary," which is an absolute lie. It is not voluntary. It is forced.

Pursuant to the Kemp-Castings, I wonder if you could tell us exactly, because the administration has already sought to send \$40 million to UNFPA under a convoluted and I think a very nuance policy that trivializes human rights of saying they ought to have segregated accounts. We all know money is fungible. If you give \$10, \$5 goes in this pocket and \$5 goes in that pocket; I still have \$10 even though they are in separate pockets or separate accounts. Money is fungible.

If you can tell us if a determination has been made that, first, China's program is or is not coercive and, second, does the United Nations Population Fund provide any assistance that in any way—the previous administrations again found over and over again that by providing the infrastructure, the computer capability to hone in on right down to the factory level how many birth quotas were going to be allotted to factory X, Y, or Z, they were able to assist the local cadres in saying, "There is only 10 births allowed here. That is all we are going to have. If you exceed it, the 11th is aborted, the 12th is aborted." And so on and so forth. They may not ac-

tually be providing—although we do not know this—the poisons that actually kill the unborn children, but we do know they provide a massive amount of infrastructure and technical expertise where people who are on the ground, they have spent in excess of \$100 million over the last 10 years or more, way in excess of \$100 million. And even when the high tide was occurring back in 1983 where now even people who say, “Yes, that was a bad program,” when the high tides were occurring and women were forcibly aborted. Even during that, the U.N. gives an Excellence for Population Affairs Award and the head of the Chinese Family Planning said, “That award puts the imprimatur on the program.” The United States and people who care about women’s right can say whatever they want, the U.N. provided the firebreak, the wall against any of those barbs and any of those criticisms.

Those two questions, if you would? The determination of the program itself, number 1, and whether the UNFPA is in any way abetting this heinous program.

Mr. SHATTUCK. Mr. Smith, I know you and I have discussed this in the past and as you are well aware, I have raised this very issue on repeated occasions in my trips to China, most particularly with the Family Planning Bureau and the Health Ministry which I was in recently. I would say several things in response.

First, and I think it is important to note for the record that this particular issue is not one of the seven conditions in the President’s Executive order. It is an issue of great importance and an issue to which he spoke in his letter transmitting the Executive order to the Congress and one which we support in the administration.

Second, there is certainly some evidence that there is coercion of the kind to which you are referring. I think the issue of family planning in China is certainly complicated and I do not profess to be an expert on that subject. We have made very clear that to the extent there is coercion and there is evidence of coercion, the United States is strongly opposed to it and it is so indicated in all of our dialogues with the Chinese.

On the subject of the UNFPA, you know the way in which we have approached that subject, and that is to make very clear that U.S. contributions for the UNFPA should not be provided in a fashion to go into the programs that are in place in China. I think that is as far as I will go in responding to your question at this point.

Mr. LORD. Excuse me, Mr. Chairman, for reasons you know, I apologize. I have to leave now.

Mr. LANTOS. I think we all understand because you are meeting with the majority leader. I want to thank all of you. If my colleague would not mind submitting whatever additional questions he has.

Mr. SMITH. Mr. Chairman, might we continue this hearing at some other time? Some of us would like some additional time.

Mr. LANTOS. We would be most happy to—

Mr. LORD. We would be happy to come back—

Mr. LANTOS. May I say that Secretary Shattuck is available and if we can excuse Secretary Lord and my colleague will take the chair, I will be very happy to have Congressman Smith continue the questioning.

I do want to thank you, Secretary Lord, for your presentation.

Mr. LORD. And I will be glad either individually or come back to the committee again to answer these questions.

Mr. SMITH. Secretary Shattuck, you are the point man for human rights. Obviously you are very knowledgeable on this issue. The evidence triggered to withhold these funds for UNFPA each successive year since 1985. Some of us see this as the harbinger of what the administration is going to do with MFN as well. A nuance, come up with some kind of creative language that allows MFN to continue while trying to say we are against human rights abuse in China, we would use the trade leverage and fight it faithfully.

Kemp-Castings is still the law of the land and hopefully it will remain so. I know there will be a major effort to appeal it eventually, but it is the law of the land.

Has that determination been made? I mean we are talking about an organization that have people on the ground working side by side with the top leadership of the People's Republic of China's Family Planning Bureau with whom both of us have met with, Andrew Young and all the other people there. They work side by side, hand in glove, UNFPA, and when I have spoken to UNFPA, they see no evil, hear no evil, say no evil. "There is no coercion." And again, for those of us for whom it counts—

Mr. SHATTUCK. Let me go beyond my previous answer in this respect. The UNFPA is a very important organization from the point of view of the Clinton's administration policy. It is an organization that we believe does good work around the world and who we want to support.

We understand that UNFPA itself is evaluating its role in China and certainly our views on that subject in its evaluation are well known. And I think until that is completed, I am not going to say anything further at this point.

Mr. SMITH. But again, Mr. Secretary, the administration had to make an affirmative determination here. That money was only held up because of a lawsuit. So was that determination made? Yes or no?

Mr. SHATTUCK. I think I am going to submit an answer for the record on that, if I may.

Mr. SMITH. It really strains credibility to think that the Assistant Secretary of the Human Rights is not aware whether or not such a determination has been made. It very much concerns me. With all due respect—

Mr. SHATTUCK. What I would like to do for the record is to submit the information that we have regarding that determination. I did not come prepared to provide it to you. I am making the general statement which I think you share that there is evidence of coercion in the family planning area in China.

Mr. SMITH. If you could just so it is very clear, in addition to that determination, does the UNFPA in any way aid and abet that, which is a paraphrase of support or comanage coercive population control. Again, we radically departed from the past administrations on this. Again, there is a lot of rhetoric stating that the administration is against coercion, but just like the Chinese human rights abuses in other areas, as Pong Pei Yong points out that what we are seeing is a paper tiger on the MFN issue. And he said it in his statement here which I have asked be made part of the record.

Mr. ACKERMAN. Without objection.²

Mr. SMITH. They seem to have our number. You know, we talk a good game, but we do not follow it up. I say that with all due respect to you, Mr. Secretary.

Mr. SHATTUCK. Let me be very clear for the record that this issue is not one of the seven issues in the Executive order. That does not mean it is not an important issue. But the nature of our discussions, negotiations and considerations of the President's policy on MFN is going forward within the context of those seven issues.

Mr. SMITH. On that Executive order, the report to the Congress did contain language that at least in an answer from a previous witness—and I said it was not in there. They said it was and pointed to this language and actually gave me a copy of it where the coercion was to be considered as part of the significant progress.

Mr. SHATTUCK. Well, it is for that very reason, as I indicated, that I have repeated by scheduled meetings with China, and have had extensive dialogues with the two relevant ministries, the Bureau of Family Planning and Ministry of Health. And so we are treating the issue very seriously. But I think it is important that we be extremely clear about what is and what is not specifically within the context of the MFN Executive order. I am just trying to make the record as clear as I can on that subject.

Mr. SMITH. So we have dropped our tool so far with regards to UNFPA, one tool, in citing coercion—

Mr. SHATTUCK. I did not say that. That is not my testimony.

Mr. SMITH. I am just saying the administration has tried and probably if it has not already sent the check, very likely will soon send \$40 million to the UNFPA and has asked the Congress for an additional \$60 million and now your testimony if I hear it clearly, this is a consideration but it is in no way binding. The report to Congress which included coercion in population control, that is not a human rights abuse that is binding?

Mr. SHATTUCK. I will state what I said before which is that the seven conditions that are set out in the Executive order are the conditions under which the determination that the Secretary of State has to make for the President are made. The other issue is very important, but it is not one of those seven conditions.

Mr. SMITH. Would it be possible by today to get the determination by the President? Again, this should have been done before \$1 was attempted to be sent to the UNFPA. Again, what do they do? What are they involved with over there? And, first of all, is the program coercive? Could we get that today?

Mr. SHATTUCK. We will make an effort to get that.³

Mr. ACKERMAN. We will keep the record open.

Mr. SMITH. I appreciate that, Mr. Chairman.

Mr. ACKERMAN. Pending the submission of answers to these and other questions. Thank you.

Mr. SMITH. Thank you, Mr. Chairman.

²The UNFPA report appears in the appendix.

³See UNFPA report in the appendix.

CHINESE OBSERVATION OF HUMAN RIGHTS

Mr. ACKERMAN. Let me ask a couple of questions before we wrap this up. Is it more important that we get the Chinese to observe human rights or that the Chinese observe human rights?

Mr. SHATTUCK. I think it is clearly important that the Chinese observe human rights. No question that that is the answer that I would give.

Mr. ACKERMAN. It seems to even the most casual of observers that there are some places within the spheres of China that things seem to be going on that are not going on in other places of that country.

When one looks at Hong Kong, when one looks at Taiwan, when one looks at the Eastern Rim, Southern Rim of China, there appears to be much more freedom, however one might define that. Is that an accurate observation?

Mr. SHATTUCK. I think that is an accurate observation, yes, Mr. Chairman.

Mr. ACKERMAN. Is that because we have more forcefully conditioned MFN to China in those regions or not?

Mr. SHATTUCK. Well, I think the regions that you spoke of, particularly Hong Kong and Taiwan, while they are in——

Mr. ACKERMAN. And Shanghai.

Mr. SHATTUCK. And Shanghai. Well, I would draw a sharp distinction having just recently visited Shanghai——

Mr. ACKERMAN. Xangjiang, Guangzhou.

Mr. SHATTUCK. Yes. I draw a sharp distinction between the situation on human rights in those areas and Hong Kong and Taiwan.

Mr. ACKERMAN. But it is not because we have conditioned MFN in some different fashion there?

Mr. SHATTUCK. No. It's because the two areas that I've just referred to, Hong Kong and Taiwan, are not—have not been under the formal legal jurisdiction of China.

Mr. ACKERMAN. Well, what about the areas that are under the formal jurisdiction of China that I mentioned?

Mr. SHATTUCK. Well, again, Mr. Chairman, having just recently been in Chengdu and Shanghai, I would have to say that with respect to basic issues of freedom of speech and issues of dissent, the situation is not a good one. There have been bursts of freedom of speech, but there have been most recently a number of instances in which individuals had difficulty. And there has also been some difficulty in the area of religious freedom. And we are looking for progress away from that. That is what MFN, and the Executive order are all about and that is what the narrow——

Mr. ACKERMAN. Is it your testimony that within those regions of China to which I have referred there are just as many human rights violations as in the interior of China?

Mr. SHATTUCK. I am not quantifying any particular number of violations. I would simply note that there have been fairly well publicized instances——

Mr. ACKERMAN. Let me try again. There is a difference between the amount of crimes and the crimes that are reported. That goes for my neighborhood as well. And if less crime is reported, it does not mean there is less crime. And when you highlight an issue

where more crimes are reported, it does not mean more crime, it just means that more crimes are reported.

My question really is in those areas of China where there is more trade, more commerce, more freedom to create, more freedom to associate with others, more freedom to make private agreements or contracts, more freedom to access information, more freedom of movement, more freedom to compete, more freedom to keep a little bit of what you earn creatively, within those areas that seem to be booming and thriving economically, is there more or less freedom than in other areas of China?

Mr. SHATTUCK. There is no question as you can see from my prepared statement, which I obviously did not cover in toto, that what we have today is an MFN decision that is at the crossroads of two strong positive trends in the world, generally and we hope also in China. The first trend is the spread of free market economies, and the second trend is the global drive to democracy and human rights. And I think I would also—

LINKAGE BETWEEN ECONOMICS AND HUMAN RIGHTS

Mr. ACKERMAN. Let me ask it in your parlance now. In those areas of China where there is a greater shift to a free market economy, are the human rights conditions better? Is there more or less individual liberty?

Mr. SHATTUCK. Certainly the improvement of the economic situation and the advent of a free market economy is an important component. No question that it is an important component in the freedom that people can have in China or any other part of the world. But I think it is also important to note, as the Secretary said, assume that we must not assume a free market in goods can necessarily produce a free market in ideas. We hope there is a strong relationship to be sure, but it is not certain, and there is unfortunately some evidence to the contrary in China.

Mr. ACKERMAN. Some evidence to the contrary?

Mr. SHATTUCK. Some evidence that the linkage between those two is not always there.

Mr. ACKERMAN. Is it your suggestion then that we should discourage a change to a free market economy if there is evidence that you have testified that it is counterproductive to our human rights agenda?

Mr. SHATTUCK. I am not saying it is counterproductive, Mr. Chairman. I am simply saying that we cannot assume that a free market in goods necessarily results in a free market of ideas.

Mr. ACKERMAN. You really believe—

Mr. SHATTUCK. We can certainly recognize that that occurs in some places. I would agree with you that there have been elements of freedom and important elements that have existed in some of the parts of China where there has been an advance in free market economics and particularly in the advance of the economic situation.

Mr. ACKERMAN. I do not know if I am having difficulty understanding what you are saying or difficulty believing what you are saying.

There is no evidence that there is linkage between free market economies and democracy and/or democratization?

Mr. SHATTUCK. Mr. Chairman, I clearly am not saying that. I am saying that certainly the growth of a free market economy—

Mr. ACKERMAN. Are you saying that it is neutral or it has no effect?

Mr. SHATTUCK. The growth of a free market economy and the growth of an economic situation in general, the improvement of an economic situation in general, is a very important component and one that this administration is pursuing vigorously in terms of the improvement in human rights. There is no question that that is the case. But it is not always certain that there is a direct and immediate relationship between investment, economic improvement, and immediate flowering of human rights.

Mr. ACKERMAN. I learned a long time ago not to believe in instant gratification. There is nothing that is immediate especially when there is a history or tradition attached to that. But allow me to say that some of us who strongly share the concerns about human rights do not necessarily have to build a wall around the arguments of human rights to protect them and their exclusivity so that human rights—the argument that human rights are only obtainable if we demand human rights, but somehow the evolution of freedom and human rights is a process as has been demonstrated in so many other places and that I believe, and you can respond to this because you are testifying and I am not, but I will state my view. I believe despite the fact that I believe in a very strong human rights agenda and that we should pursue that with every avenue possible, that nonetheless sometimes human rights happens without other people insisting that they happen and there can be other factors, and often are other factors, to obtaining human rights than just our simple assistance. There are some, as frivolous as it may seem, who believe that democracy follows designer jeans. If you think about that to any great extent and look for examples, you might find that. You might find an awful lot of countries in very recent history who have had fairly soft revolutions from one form of government to another form of government based on the fact that people have television sets and access to radio and access to foreigners and kids can see what other people's kids are wearing. An evolutionary process. And that people who are allowed by oppressive governments to compete, to exercise their minds, to be creative, to interface with each other and interface with other people and to interact and find out what is going on in the world buildup a certain amount of pressure. A lot of that pressure is placed on their governments. And sometimes those governments react and we see reaction to democratic expression. That does not mean that that perspective of the government was not there all along, but suddenly it is being reported because the people now have democratic institutions implanted in their minds because they are allowed a sense of human dignity and creativity. And it just seems more than coincidental to a number of us that in those areas where there is the ability for people to engage in free market economies that there is an awful lot of political activity taking place that is going to and has advanced the march toward democracy and the gaining of human rights.

Mr. SHATTUCK. This is a very important subject and I appreciate your bringing it up. Let me state my views on the matter, because

I think they are not fundamentally different from the ones that you have just expressed.

There is no question that the growth of a world in which communication is very rapid and in which national boundaries are frequently transcended by economic and communications forces, is a world which does foster more democracy and greater human rights protection. We should applaud that and we do applaud that. Indeed, one of the pillars of the President's foreign policy is the pursuit of market economies and the growth of democracies, as well as the very strong pursuit of human rights protection.

I think we have to look at particular examples of what happens in some countries as opposed to other countries with respect to human rights tradition. If you take Asia, which of course you are more familiar with than I am in many respects, the subject of human rights in Asia is a complicated one. There are some very strong human rights and democracy regimes. Certainly, I think Japan, and we can go through and name a number of others, who have very strong economic growth and market economics that are well at work as we know.

There are some other places, Singapore and Burma where economic development is occurring rather substantially and yet I do not think we are seeing the kind of human rights protection that should exist, I know you agree with that. I am not saying that human rights protection comes about solely as a result of some external forces. By no means. There are internal indigenous activities that go on. But I think the test of whether a country is in fact following human rights standards and whether or not human rights and democracy are flourishing cannot be simply a test of whether the economy is growing. I think there is a strong relationship between the two, but I think our experience in Asia indicates that that is not always the case.

Mr. ACKERMAN. Well, this is probably a subject that could go on forever. Sometimes it appears that it will.

Let me thank you for appearing with us today. We appreciate your participation along with Mr. Lord. It has made a major contribution to help our understanding of this matter. This hearing is now adjourned.

[Whereupon, at 3:54 p.m., the subcommittee adjourned subject to the call of the chair.]

APPENDIX

OPENING STATEMENT OF THE HONORABLE TOM LANTOS

CHINA: HUMAN RIGHTS AND MFN
March 24, 1994

I am pleased to welcome Assistant Secretary of State for Asia and the Pacific Winston Lord and Assistant Secretary of State for Human Rights and Humanitarian Affairs John Shattuck, who come before us today to discuss U.S. policy toward China. I want to commend them for their superb performance, under difficult circumstances, in China two weeks ago. They represented U.S. interests with dignity and honor. The Clinton Administration deserves praise, not criticism, for its principled stance on MFN for China.

In the aftermath of the Chinese Government's hostile reception of Secretary of State Warren Christopher there has been a lot of sound and fury over U.S. policy toward China. While interpretations and dire predictions are flying fast and furious, it might be instructive to recall some indisputable facts.

1. China's human rights performance, relative to the conditions laid out in the President's Executive Order of May 28, 1993, has not improved during the past year:

- forced confessions and torture by police and prison authorities are commonplace
- Chinese prisons are filled with thousands of political and religious prisoners who committed the "crime" of trying to practice the universal basic freedoms of speech and assembly
- prisoners are used as slave labor for China's huge export market
- coercive birth control practices continue, including forced abortions and sterilizations
- China continues its brutal occupation and colonization of Tibet, seeking not only to deny Tibetans control over their country but also on destroying its rich and ancient cultural heritage as well
- restrictions on emigration remain in place for dissidents and the regime also practices internal exile
- the jamming of Voice of America broadcasts continues

2. Thus, China has not made sufficient progress on human rights to justify renewal of its MFN status.

Tim Wirth, Counselor of the State Department, acknowledged this at the Feb. 1st hearing of the Subcommittee on International Security, International Organizations and Human Rights when he stated that:

"If you look very clearly at the language of 1993 (China Human Rights) report, it notes limited progress . . . and that word was carefully chosen. Limited progress does not meet the criteria of overall significant progress laid out by the President of the United States."

3. China, the most populous country on earth, possesses nuclear weapons, has a huge army, and is a member of the UN Security Council. China exerts enormous influence on world affairs. It cannot be allowed to flaunt its international obligations as it currently does. To allow it to continue to do so with impunity, is to undermine the very foundations of the international system. Further, China poses a grave threat to regional security.

4. Key areas of concern in U.S.-Sino relationship:

Trade Policy: China sharply limits U.S. market access and violates trade agreements. China routinely pirates software and other U.S. intellectual properties. China uses prison labor in violation of international labor standards

-- USTR Mickey Kantor recently cited Chinese trade violations in U.S.-Chinese textile trade, accusing the Chinese of transshipping every year \$2 billion of goods in excess of its quota

-- The United States has its second largest trade deficit with China. It could reach \$30 billion this year; it was \$23 billion in 1993. 38% of Chinese exports go to the United States

-- And the goods traded raise serious questions -- the Chinese military is operating on our shores, with the approval of the Department of State and the Bureau of Alcohol, Tobacco, and Firearms. We are allowing unfettered trade to take place -- a trade that enriches the army of a country that poses a grave threat to international security, and a trade which has greatly contributed to the bloodshed here at home. It was a Chinese rifle that was used last year in the attack on motorists near the CIA; it was a Chinese rifle that a deranged man in Louisville used to kill eight co-workers and to wound twelve others, and it was a Chinese AK-47 used by the crazed killer in the school playground in Stockton, California. According to an official of the U.S. Customs Agency, Norinco, the Chinese supplier of the AK-47s, is flooding the U.S. market with "Chinese imports so cheap that is possible now to buy a semi-automatic rifle for \$129 dollars or less . . . a similar American weapon costs about ten times as much. It

just allows more and more individuals to put their hands on those weapons." I have joined my colleague Edward Markey and others in this body in fighting to close this loophole.

Non-proliferation of nuclear and conventional weapons. China has supplied advanced weapons and technology to Pakistan, Syria, Iraq, and Iran. The U.S. has charged that China's sale last summer of M-11 missile components to Pakistan was in violation of the Missile Technology Control Regime. Despite the moratorium on the testing of nuclear weapons that the United States and other nuclear powers are maintaining, China refuses to comply and continues its nuclear testing

International human rights standards. China has one of the worst human rights records in the world. The picture has become even grimmer in recent months as the regime has increased pressure on Tibetan nationalists and religious believers.

North Korea. China has been reluctant to use its considerable influence over North Korea in the international effort to compel North Korea to adhere to its obligations under the Nuclear Non-Proliferation Treaty.

5. U.S. Policy toward China:

These four areas are of vital importance to the United States and the international community. All four are interconnected, but underlying all of them is human rights because a country's human rights performance reveals its attitude toward the rule of law and its standards of conduct and decency.

Thus, progress on the human rights front is sure to bring progress in the other areas; conversely, a deteriorating human rights record is most assuredly going to be reflected in more egregious performance on the other fronts. A country that violates the most basic rights of its citizens is likely to ignore its treaty obligations and to have precious little concern for maintaining peaceful relations with its neighbors.

Hence, the United States should mobilize all the resources at its disposal to compel better performance by China in all of these areas, especially human rights. It is not, as some in the business community assert, against our self-interest to deny the Chinese Government access to the huge U.S. market and to American technology. Rather, it is entirely in our self-interest to try to influence China's behavior in a positive direction.

Trade is one of the most potent weapons we have in our arsenal and we will never have more leverage than we do today. China needs us much more than we need China. I am sure we can easily find a new, low-cost supplier of Barbie dolls, running shoes and Christmas tree lights. China, however, will have a much harder time of finding another market like ours because our economy dwarfs all

others. Indeed, China is running a trade deficit with all of its major trading partners except for the United States. So, let's not hesitate to play our hand here -- it's a royal flush.

I would like to see some of the U.S. foreign investors who are standing in line to get into China turn their attention to Russia and the Newly Independent States. These countries, which are in the midst of a painful transition to democracy and market-oriented economies, are more deserving of our investment, from both a political and an economic point-of-view.

Back to China. There are other tools at our disposal. The Chinese regime is very sensitive to its reputation, and, in the aftermath of Tiananmen Square, is striving for full "rehabilitation" in the international community. Hence, denying the regime the right to host the Olympics in Beijing in the year 2000 dealt a very deep blow to the Government's prestige and encouraged the millions of brave Chinese citizens who have fought for human rights and democracy.

Establishing Closer Formal Ties with Taiwan is another course of action, one that is long overdue. Taiwan, a prosperous and responsible member of the international system, is currently held at arms length by the United States out of deference to China. Taiwan is also denied UN membership for the same reason. Both of those policies are wrong and should be corrected, and if doing so, makes the Chinese uncomfortable, so much the better.

6. Conclusion:

I believe revocation of MFN for China, in addition to being the only moral course for the government to take, is also a highly pragmatic one for all of the reasons above and an additional reason, perhaps the most important of all. To not do so, would cost the United States its credibility in the eyes of its enemies and friends. If we don't follow through on the policy we have set, we will lose credibility not only in Beijing, but also in Pyongyang, Baghdad, and Havana and among people the world over who look to the United States for leadership on human rights.

OPENING STATEMENT OF HON. SAM GEJDENSON

The Subcommittee on Economic Policy, Trade and Environment is pleased to join with the International Security and Asia Subcommittees in today's examination of the human rights situation in China and its relationship to the PRC's MFN status.

Over 4 years ago, the United States put aside China's deplorable human rights record and dispatched Brent Scowcroft to toast the Chinese. Beijing was pleased.

Earlier this month, President Clinton sent Secretary of State Christopher to China to let them know that their MFN status should not be taken for granted. Beijing expressed its displeasure by rounding up more political dissidents.

I'll take a President who risks the displeasure of dictators any day over a President who refuses to stand up for human rights. The next 2 months will be a critical time for the administration's China policy. I urge the President to stand firm, and to insist that the Chinese fully comply with the conditions in the President's Executive order. Only a tough line will bring significant human rights concessions by June.

It is within Beijing's grasp to meet the conditions laid out in the President's Executive order linking China's MFN status to human rights. After all, the United States didn't ask for too much. We didn't ask for free and fair elections. We didn't ask for freedom of the press. We didn't ask for freedom of religion and freedom of expression. We simply asked that Chinese make "overall significant progress" on a select group of human rights issues in order to be treated like a responsible actor on the international scene.

A condition of the President's Executive order of particular interest to the subcommittee is China's adherence to the 1992 U.S.-China agreement on prison labor. Since the day it was signed, the Chinese have violated the letter and spirit of the agreement, and have continued to export prison labor products to the United States. I am pleased that Secretary Christopher's visit to China yielded some results of this important front.

The Chinese agreed to several improvements in the operation of the 1992 agreement. These concessions hold the promise of expediting U.S. inspections of suspected prison labor sites, ensuring that American Customs agents receive access to all parts of a facility, and allowing the prison factory documents to be open to inspection. The burden is now upon Beijing to live up to its new commitments, and to demonstrate that agreements with the PRC are worth the paper they're written on.

I thank today's distinguished witnesses for coming, and I look forward to hearing about the status of the ongoing discussions with the Chinese as well as the plan for achieving U.S. objectives by June.

OPENING STATEMENT OF
 CONGRESSMAN GARY L. ACKERMAN
 SUBCOMMITTEE ON ASIA AND THE PACIFIC
 JOINT HEARING ON CHINA:
 HUMAN RIGHTS AND MFN
 MARCH 24, 1994

The House Subcommittee on International Security, International Organizations and Human Rights, the Subcommittee on Asia and the Pacific, and the Subcommittee on Economic Policy, Trade and Environment, meet today to explore the issue on Human Rights in China and MFN.

U.S.-PRC relations are at a critical juncture. The question facing policymakers in both countries is how to overcome the legacy of nearly five years of stagnation, culminating in the tension that has occurred over the last few weeks.

Last year, at a similar hearing, I suggested that we must decide what the most appropriate policy is to achieve the following objectives:

- 1) The protections of human rights for all citizens of the PRC;
- 2) Movement toward democracy and market economies; and
- 3) Keeping the U.S. business competitive in this extremely important market.

I continue to believe that these objectives are critical in enabling us to maintain and enhance the U.S.-PRC relationship. However, the recent actions by the Chinese government make this difficult.

Two weeks ago, the government bluntly rejected efforts by Secretary of State Warren Christopher to get them to respond to U.S. human rights demands and virtually dared the Clinton Administration to carry out a threat to disrupt bilateral trade over the issue. This rebuff, coupled with the rounding up and detention of dissidents prior to Secretary's visit, only proves to us that the Chinese are not serious in making progress on human rights.

The PRC must take concrete steps in this area in order to receive renewal of its MFN status. It is not possible for the Clinton Administration or the U.S. Congress to renew Most Favored Nation Status if we do not see progress on this front. The President's May 28, 1993 executive order stated that the U.S. would extend the PRC's most-favored nation (MFN) status if seven conditions were met. For the last several months, the Clinton Administration has been warning the leaders of the PRC that unless this occurs, MFN will not be granted. In order to turn around this relationship, President Clinton needs more than gestures from China that address American concerns and assuage critics in

the areas of human rights, in order for him to overcome political forces favoring a more aggressive U.S. posture toward China.

I would like to mention that with respect to trade and proliferation, I also have serious concerns. I am also deeply philosophically opposed to any forced population transfer of ethnic Chinese into Tibet thereby destroying Tibetan national identity.

Whether or not there is broad support to drop the linkage of human rights to MFN is not at issue this year. We have an Executive Order that must be adhered to. Given the immense problems inherent in this debate, I hope that the U.S. and the PRC are able to reach agreement on these issues so that we can move forward on areas of common concern and shared objectives to improve our relations.

We look forward to hearing from our two distinguished witnesses this afternoon and in furthering our knowledge and insight into the future of how the Administration plans to proceed in our relationship with the Peoples Republic of China.

OPENING STATEMENT
 SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTERNATIONAL
 ORGANIZATIONS AND HUMAN RIGHTS
 CHINA: HUMAN RIGHTS AND MFN
 MARCH 24, 1994
 CHRISTOPHER H. SMITH (4-NJ)

With only a few weeks remaining before the President must make a decision on the renewal of Most Favored Nation (MFN) trade status with the People's Republic of China, the amount of activity surrounding this decision has markedly increased.

This joint hearing today is one of several that House committees have sponsored in an effort to measure China's compliance with the Executive Order issued in May of last year. We are all aware of the conditions outlined in the Order. Several delegations have met with Chinese officials to stress the importance of these human rights conditions and to urge the Chinese government to make significant progress so that trade between our two countries can continue.

I led one of these delegations in January and had the opportunity to meet with several government officials and engage them in dialogue on the future of U.S.-Sino relations. As both Assistant Secretary Shattuck and Assistant Secretary Lord know, my delegation was not exactly welcomed with open arms by the Chinese. After our invitation was rescinded, both Mr. Shattuck and Mr. Lord were instrumental in assisting the delegation in making arrangements which insured a successful and insightful visit to China.

Both of you, to your credit, have remained steadfast in your commitment to advancing the cause of human rights in China. Mr. Shattuck, because of your position in the Bureau for Human Rights and Humanitarian Affairs, has been particularly helpful when I have sought his assistance in raising the issue of religious prisoners and other human rights issues. I am grateful for your presence here today so that we can once again address the issue of human rights in China.

None of us can close our eyes to, squint or in any way downplay or over look the abysmal human rights record of the People's Republic of China. Let us be candid, China has been and remains a dictatorship--its leaders routinely and cruelly violates the rights of its citizens and the trend is ominously moving in precisely the wrong direction. The U.S. Department of State in the annual Country Report on Human Rights Practices says that China's "overall human rights record in 1993 fell far short of internationally accepted norms"--not just short, far short. When this report was issued many top level officials said that based on the evidence that they currently had, China had made no significant progress. The Secretary of State had indicated at the time the report was released that if the decision had to be made then, he could not recommend renewal of MFN.

Given the clear objectives in the Executive Order, and the amount of support it received when it was issued, we should not be surprised that leaders of both Houses, like

Lee Hamilton and George Mitchell, have recently stated that they would also be against extending MFN to China based on the conditions outlined in the Order.

Yet, Mr. Chairman, I am quite disturbed, however, at the recent reports which indicate a shift in attitude by the Administration. Just prior to Secretary Christopher's historic visit to China earlier this month we began hearing that rather than "significant progress," the Administration might accept a "grand gesture" or "promises" for progress in place of measurable, tangible progress in the area of human rights.

Last week President Clinton further confused the issue when he said "Our policy is that human rights are important, but so are the other issues." A commentary in a Hong Kong newspaper interpreted this remarks as indicative that "there has been some change in the official U.S. approach toward China." In the same week, Secretary Bentsen said that the Administration needed to rethink its strategy for dealing with China.

There is a great deal of concern that China is getting mixed signals about what the U.S. means when it says it wants "significant progress" in human rights in China. Frankly, the more I see from the Administration, the more mixed signals I receive as well. Is the Administration looking for significant progress, or will the Executive Order become a meaningless use of words, without any action to back them up?

I invite our distinguished and honorable witnesses, Ambassador Lord and Secretary Shattuck, to repudiate any weakened standard or assessment.

We are certainly not getting a mixed message from the People's Republic of China. The human rights record of that country has continued to decline since the Executive Order was issued. Not only that, the Chinese government has chosen times and opportunities to show their contempt for U.S. commitment to human rights which have been most embarrassing.

Mr. Chairman, during my visit to China to China in January I attended a Mass celebrated by Bishop Su Zhi Ming. Bishop Su has spent 15 years in Chinese prisons and suffers physical disability because of the beatings, torture and mistreatment at the hands of security police. Shortly after our visit, on January 20, the very day that Secretary Bentsen was in China discussing the future of U.S.-Sino relations, Bishop Su was arrested and detained for nine days. He was interrogated at length about his meeting with us. His crime-leading a worship service for foreigners.

Bishop Pei was also to say Mass for our delegation. We were told that he had to go for an emergency anointing of the sick. I have recently found out that the person who came to get him was actually a security officer who took Bishop Pei to the police offices so that he could not say Mass for our delegation.

Another Catholic priest, Father Wei Jingyi, was also arrested on January 20. His whereabouts are unknown. Even now, the authorities deny he is being detained, although they have accepted clothing for him from his sister. According information I received, it is

believed that he is being held because of his position in the underground Catholic Church and that the government is trying to obtain information from him.

New religious laws which further restrict the religious activity of foreigners and Chinese were issued on January 28. These laws outlaw activities even done in the privacy of one's home and give the green light to security police to arrest, imprison, and torture religious believers. The police have already moved to enforce these laws. One victim has been Reverend Dennis Balcombe, an American citizen, who was detained for four days, unable to contact the U.S. Embassy. Before he was finally deported, all of his belongings were confiscated.

Mr. Shattuck, you and Secretary Christopher have both recently travelled to China to further discuss human rights. You are probably well aware of the disdain with which your visits were viewed by the Chinese. Your meeting with Wei Jingsheng was symbolic of your commitment to human rights, and should have been a clear signal to the Chinese government. Yet Jiang Zemin said that your meeting with Wei was "ridiculous" and that it showed a lack of "sincerity to improve relations with China."

Mr. Jiang was even less flattering toward Secretary Christopher. In a "special dispatch" from Beijing, published in Hong Kong, the President of China has the audacity to say that dealing with Mr. Christopher was "child's play" and that all Mr. Christopher wanted to do in China was "play tricks." Such an attitude given articulation by one of the highest officials in China is a terrible insult to the Secretary of State--and all who revere human rights. He went on to say that "since we could not control Christopher, we controlled the dissidents."

And how was this done? We could read of the dozens of political dissidents who where detained during the Secretary's visit. Bishop Pei, who was detained while I was in China, was again arrested on March 11 and released on March 14--coinciding with the dates the Secretary was in Beijing.

The disregard for the Executive Order goes on with the continued disregard for human life via a cruel eugenics policy enforced since 1988 in several provinces and coercive methods of population control. In a recent speech Peng Peiyun, head of the State Family Planning Commission, said that everything possible must be done to lower the birth rate. In China, the ends justify the means so women are forced to abort their precious children. Given the evidence that forced abortion and sterilization have reached its highest point since 1983, how much more will be tolerated. Even Secretary Christopher, when presented with the facts said that this situation is appalling. In the "Report to Congress Concerning the Extension of Waiver Authority for the People's Republic of China," it explicitly states that "in considering extension of MFN, we will take into account Chinese actions with respect to the following: Taking effective steps to ensure that forced abortion and sterilization are not used to implement China's family planning policy."

The evidence clearly shows that there are mixed signals. No effective steps have been taken to stop United States' funding of UNFPA, even with the strong evidence that

coercion is used in China's population control policy.

Reports of women being sold into sexual slavery are now coming to light. "Dealers in human beings" can be found in the market places hawking their wares--young girls abducted from villages--to the highest bidders. Tens of thousands of women have been kidnapped from their villages and sold as brides in other villages.

The Chinese may be getting mixed signals from the U.S. But China's response to the Executive Order is quite clear. While we have asked for "significant progress" in universally accepted standards of human rights--not U.S. standards-- what we have gotten is significant regression. Their actions have not only shown their complete disregard for the conditions, they also show their complete disdain for the United States.

I am disturbed by reports that indicate that the Administration might be weakening their commitment to human rights in the Executive Order. When I hear statements that a "grand gesture" or "promises" could replace the "significant progress" called for in the Executive Order, I wonder what good our words are if they will not be backed up by action. There is a great deal of evidence that China has regressed significantly. Their actions during my visit, during Mr. Bentsen's visit, during Mr. Shattuck's visit and during Mr. Christopher's visit show complete disregard toward the conditions of the Executive Order and the entire United States. Only a few weeks remain before the Administration must make a decision on renewal of MFN. Given the evidence I don't see how the Secretary of State could recommend renewal or how the President could seek a waiver of Jackson-Vanik. And I don't hold out much hope that the Chinese government will make any progress that we could call significant in this short time. We cannot sacrifice human rights for profit. We need to be as clear in our demands, and in our action, as they are in their disregard.

I look forward to your testimony and to the dialogue which will help clarify the Administration's current position on implementation of the Executive Order.

STATEMENT OF ASSISTANT SECRETARY OF STATE
FOR EAST ASIAN AND PACIFIC AFFAIRS WINSTON LORD
BEFORE THE
HOUSE SUBCOMMITTEE ON ECONOMIC POLICY, TRADE AND ENVIRONMENT;
SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTERNATIONAL
ORGANIZATIONS AND HUMAN RIGHTS; AND
SUBCOMMITTEE ON ASIA AND THE PACIFIC
MARCH 24, 1994

Chairmen and Members of the Committees:

Thank you for the invitation to testify before the three subcommittees on our policy toward China.

Our relationship with the most populous nation on earth is one of our most important. Chinese actions can affect many key U.S. interests--in trade, nonproliferation, human rights, regional issues such as North Korea and Indochina, and global issues such as the environment and narcotics trafficking. China holds a permanent seat on the United Nations Security Council. It is one of the largest and fastest-growing economies in the world. And it is a major military power that produces nuclear weapons and exports nuclear and missile technology. We therefore serve American economic, political, strategic and humanitarian objectives by promoting China's opening to the outside world.

In the spring of last year, the Administration, at the President's direction, consulted closely with Congress on how to both advance our human rights goals and shape constructive relations with this large nation. The result of these consultations was the President's May 28, 1993, Executive Order, which approved renewal of China's MFN status and linked a further extension in 1994 to certain realistic and obtainable human rights criteria. At the same time, the Executive Order stipulated that U.S. trade and nonproliferation goals would be pursued through instruments other than linkage to MFN.

The Executive Order set two mandatory requirements--one on emigration and another on prison labor exports--and required the Secretary of State to base his recommendation for a further MFN extension on whether China had made "overall, significant progress" in five other human rights areas.

Members of both parties joined in supporting the Executive Order in this first show of Congressional and Executive Branch unity on China policy since the crackdown on peaceful demonstrators in 1989. They praised the Executive Order for providing the appropriate balance between pursuing America's human rights goals and engaging China in other spheres. The signing of the Executive Order at the White House brought

together Members of Congress with widely different views, business and human rights representatives, Chinese students and a Tibetan spokesman. The balanced approach forged by the President received broad support from across the political spectrum and across the nation.

Immediately following the issuance of the Executive Order, we initiated a dialogue with China on steps that would be necessary to renew China's MFN status this year. We also continued to monitor human rights practices in China. At the end of the year, the State Department issued a detailed report listing areas where there were continuing concerns as well as areas where there had been some improvement.

In September 1993, the President approved an expanded strategy of comprehensive engagement with China aimed at addressing the full range of issues of concern--from human rights to trade and nonproliferation to regional and global matters. The President's decision followed an extensive interagency policy review that confirmed that a healthy, constructive bilateral relationship with China was essential for securing long-term U.S. interests.

By widening the scope and raising the level of our dialogue on issues of mutual concern, we sought to give China the incentive and latitude to move forward on difficult topics.

We opened a variety of channels of communication to engage the Chinese on key issues. And we used a variety of means to encourage progress. On trade, we have maintained an active senior-level dialogue and made progress on market access and financial services. When negotiations stalled in the case of textiles, we used the authority of U.S. trade law to press for a settlement acceptable to both sides.

Similarly, senior Chinese and American officials also met to address issues relating to missile and other types of proliferation. When we failed to resolve one particular case involving the transfer of missile technology to Pakistan, we turned to U.S. nonproliferation legislation for authority to impose sanctions. We have resumed discussions with China but to date have not made substantial progress.

On other tracks, we have conducted steady exchanges on global and regional issues, in particular the North Korean nuclear challenge. In its own self-interest, China has weighed in with North Korea in support of international diplomacy to resolve this question. The IAEA has now referred this problem to the United Nations where we look for China's cooperation together with a strong global consensus.

Within this broader framework of visits, exchanges and negotiations, we have also worked to advance our human rights

goals. Secretary Christopher established a regular channel of communication with Chinese Vice Premier and Foreign Minister Qian. They have now met five times in five different cities. The Secretary has used this channel to reinforce our human rights concerns and pursue other key issues of global, regional and bilateral dimensions. So did the President with his counterpart at the APEC Leaders Meeting last November in Seattle.

Assistant Secretary of State Shattuck has participated in a steady series of meetings, including during Secretary Christopher's recent visit, to discuss human rights. Cabinet Secretaries and other senior officials have regularly included points on human rights in their exchanges with the Chinese even though the primary purpose of their contact may have been to discuss other issues, for example, trade or nonproliferation. The Administration has carefully screened and coordinated all visits at or above the Assistant Secretary level.

Most recently, on March 11 to 14, Secretary Christopher met with the Chinese President Jiang, Premier Li, and Foreign Minister Qian to carry the message directly to Chinese leaders on the need for further improvements on human rights as well as our readiness to build a more constructive relationship. I commend to the committees and to a wider audience the Secretary's March 22 editorial to the Washington Post, which outlines our strategy toward China and the purposes and results of his recent trip. I ask that the text of this article be included in the record.

Contrary to a persistent canard, the Chinese had been urging the Secretary for five months to go to Beijing. They never asked us to postpone the trip because of the National Peoples Congress. They only asked that we not arrive on March 10, the opening of the Congress. The Secretary adjusted his arrival by one day to accommodate that request.

Some observers have questioned the appropriateness of the Secretary going through with the trip in light of the deplorable Chinese detentions of several activists just before his arrival. Others have failed to notice the progress made despite the negative atmosphere surrounding the discussions in Beijing.

Such criticisms miss the mark. To have postponed the trip with less than three months before the MFN decision would have risked a serious deterioration in our relations and would have deprived us of an important opportunity to press our concerns.

By going to Beijing, the Secretary ensured that China's highest leaders heard directly of the President's resolve to carry out his policy. On the one hand, he expressed the U.S. desire for a more positive relationship based on bilateral,

regional and international issues of mutual concern. At the same time, the Secretary made clear the need for more progress on human rights. And he spelled out once again in detail the reasonable steps needed to fulfill the requirements of the Executive Order.

As a result of the Secretary's trip, China's leaders should have no doubt that we are serious about implementing the President's Executive Order and that Chinese complacency is not an option. At the same time, the Secretary sketched the great potential we see for our relations.

The exchanges on human rights were frank and reflected sharp differences over basic concepts. But, by the third day, they became more business-like and produced some progress. Secretary Christopher handled a difficult situation with great strength, dignity and discipline. He achieved a narrowing of some differences and encouraged the Chinese to take additional steps in areas identified in the Executive Order.

We will neither inflate nor denigrate the progress made before and during the trip. Hard work lies ahead. But the Chinese now know clearly what we have in mind. And if Beijing truly shares our vision of a more constructive relationship, the required progress on human rights can be achieved.

Before the end of May, the Secretary will make his recommendation to the President on MFN renewal. This will be based on the two mandatory requirements of the Executive Order relating to emigration and prison labor and the need for "overall, significant progress" in the five other areas. In the meantime, we will continue to seek further movement and evaluate Chinese actions.

MFN renewal is certainly attainable and within China's reach. The requirements established by the Executive Order are clear and reasonable. We are not seeking to transform Chinese society. Neither are we seeking to impose American prescriptions. What we are looking for is positive trends toward recognition of universal human rights. We ask only that China, as an emerging great power and important actor in the global arena, agree to abide by accepted international norms. The United States is prepared to do its part to build a constructive relationship and promote China's integration into the world community.

In the future, we hope that the annual debate on MFN would be less central to our China policy. Our primary objective now must be to obtain progress that will enable us to renew China's MFN status and continue to build a healthy relationship that will benefit both countries.

Congressional support for the President's policy has remained steady and strong. Last month, almost two thirds of the Senate voted to support the President's Executive Order and his approach toward human rights in China. And on the eve of the Secretary's visit two weeks ago, two hundred seventy-five members of the House of Representatives sent him a letter backing the President's efforts to achieve progress on human rights.

President Clinton's policy toward China keeps faith with American ideals--and keeps focused on American interests. That essential balance is at the heart of the consensus we have achieved with the Congress and the American people. It must remain at the heart of our nation's relations with China.

STATEMENT OF ASSISTANT SECRETARY OF STATE
FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

JOHN SHATTUCK

BEFORE THE
HOUSE SUBCOMMITTEE ON ECONOMIC POLICY, TRADE AND ENVIRONMENT;
SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTERNATIONAL
ORGANIZATIONS AND HUMAN RIGHTS; AND
SUBCOMMITTEE ON ASIA AND THE PACIFIC

MARCH 24, 1994

Mr. Chairman, I thank you and the distinguished Members for the opportunity to appear before you today. Our relations with China are a topic of broad interest and vigorous debate. In my testimony today, I am pleased to join Assistant Secretary Lord in his review of our policy toward China, and to provide some additional information about the human rights component of this policy.

In two and a half months, President Clinton will decide whether to renew China's most favored nation trading status. This decision stands at the crossroads of two strong, positive trends in the world today: the spread of free market economies, and the global drive for democracy and human rights. Secretary Christopher's article in Tuesday's Washington Post suggested how we should approach this crossroads. "We must not assume that a free market in goods can produce a free market in ideas. Nor can we abandon our responsibility to support human rights around the world. The character of our relationship with China depends significantly on how the Chinese government treats its people. The American people would have it no other way."

I will not repeat Assistant Secretary Lord's review of the President's policy, but the context for the policy is well known. As our report to the Congress of 1993 makes clear, China's human rights record has fallen far short of internationally recognized standards since the suppression of dissent in China in the Spring of 1989. Continuing abuses such as torture, detention and imprisonment of individuals for political and religious speech and repression in Tibet have served to reinforce the President's commitment to human rights as a major element of our policy toward China. President Clinton's policy linking MFN and human rights was established in the Spring of 1993 as a realistic, effective means of balancing our human rights objectives with the array of other goals and interests in our broad and complex relationship with China.

Last June the President announced that the core of his policy would be "a resolute insistence" on overall significant progress on human rights if MFN for China was to be renewed. The executive order setting forth the policy was shaped in the closest consultation with the Congress, and it won wide support from business leaders and human rights advocates alike. Its specific conditions for renewing MFN are moderate, reasonable and attainable. We are looking for positive trends on human rights, and we have made clear to the Chinese government what is meant by each of the seven criteria set forth in the order. As Secretary Christopher has said, "We are not asking China to apply American prescriptions, but only to adhere to the universal standards of human rights that bind most nations of the world today."

Over the course of the last eight months we have established an intensive dialogue with China on a wide range of issues in our bilateral relationship, including human rights. Human rights discussions are not isolated, but rather are an essential element of our strategy of overall engagement with China, as Assistant Secretary Lord has outlined in his testimony.

To help implement this strategy I have established a regular channel of communication with my counterparts in the Chinese Ministries of Foreign Affairs, Public Security, Justice and Health, and in the Bureaus of Religious Affairs and Minority Affairs. I have made three trips to Beijing, and have also travelled to Lhasa, Guangzhou, Shanghai and Chengdu, and have held meetings with Chinese officials in Washington, New York and Seattle to discuss human rights issues. The most productive and businesslike of these meetings occurred on the second day of Secretary Christopher's recent trip to Beijing, when I met for nearly four hours with Assistant Minister of Foreign Affairs Qin Huasun and prepared the way for the Secretary's final meeting with Foreign Minister Qian Qichen the following day when, as the Secretary has stated, "we began to narrow our differences."

As you know, human rights issues have been on Secretary Christopher's agenda in his five meetings with Chinese Foreign Minister Qian Qichen, as well as his recent meetings in Beijing with President Jiang Zemin and Premier Li Peng. A highlight of this engagement with China on human rights was the meeting in Seattle last November between President Jiang and President Clinton, at which President Clinton emphasized the importance of overall significant progress on human rights in China if MFN is to be renewed.

As a result of these eight months of intensive engagement with China on human rights and on many other issues, the Chinese have taken some important steps in the right direction, although we have not yet seen the overall significant progress we are looking for. To put our discussions with the Chinese in perspective, we have for the first time entered into a serious and sustained dialogue in which we have candidly explored our differences and sought areas of understanding and agreement. We have explained in detail what is meant by President Clinton's executive order, and we have succeeded in putting in play each of seven criteria for progress specified in the executive order. More progress is needed, and I believe it can only be made if we stay the present course.

Let me review each of the seven conditions in the President's executive order and summarize what has occurred to date.

The first condition is a mandatory one derived not only from the executive order but also from the statutory requirements of the Jackson-Vanik legislation concerning freedom of emigration. Under this condition the Secretary must determine that "extension will substantially promote the freedom of emigration objectives of the Act" before recommending extension of MFN. Throughout our discussions with the Chinese we have pressed for the resolution of cases of family members of dissidents and others who have been unable to leave China. In his meetings in Beijing earlier this month, Secretary Christopher was informed by Foreign Minister Qian that these cases "would not be a problem" and that they "would be handled in accordance with Chinese law." We are encouraging the Chinese to resolve the remaining cases in the near future.

The second condition is also mandatory and requires the Secretary of State to determine that "China is complying with" an earlier bilateral agreement concerning prison labor. Lengthy negotiations on this issue were concluded earlier this month, and the United States and China signed a Joint Declaration at the time of Secretary Christopher's meetings in Beijing to end exports of goods produced by prison labor as mandated by US law.

The other five conditions in the executive order require the Secretary to determine "whether China has made overall significant progress with respect to the following:

- taking steps to begin adhering to the Universal Declaration of Human Rights;
- releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the nonviolent expression of their political and religious beliefs, including such expression of beliefs in connection with the Democracy Wall and Tiannanmen Square movements;
- ensuring humane treatment of prisoners, such as by allowing access to prisons by international humanitarian and human rights organizations;
- protecting Tibet's distinctive religious and cultural heritage; and
- permitting international radio and television broadcasts into China."

The record of progress to date in these five areas has been less satisfactory, although the Chinese have taken some positive steps. Let me review what has happened so far in each area:

Chinese authorities have stated that China supports the Universal Declaration of Human Rights, but as the State Department's 1993 report on China indicates, China's record on human rights falls short of internationally recognized standards. Although a few dissidents have been released, others have been detained or arrested. While some dissidents and their family members have been allowed to leave China, labor activist Han Dongfang has not been allowed to return. Recent harassment and detentions of Christians who have sought to practice their religion outside of official channels are disturbing.

The Chinese have released some political or religious prisoners, such as Wei Jingsheng and Tibetans Gendun Rinchen and Lobsang Yontan, but others, such as Fu Shenqi, Li Guiren, and Qin Yongming have been rearrested, and most of those whose release we are seeking on the grounds of ill health remain in prison. The Chinese have provided limited information on about 235 human rights cases in response to lists we have given them, and have promised information on the cases of 106 Tibetans detained in 1993.

With respect to allowing access to prisons and prisoners by international humanitarian organizations, Chinese authorities met with representatives of the International Committee of the Red Cross (ICRC) in January. The Chinese have now agreed to hold new talks early next month with the ICRC at the expert level.

With respect to protecting Tibet's distinctive cultural and religious heritage, there has been no significant movement. The Dalai Lama's brother visited Beijing last summer, but the trip was apparently not productive. Substantive, productive talks with the Dalai Lama or his representatives have not occurred.

With respect to international radio and television broadcasting, the Chinese have agreed to receive and review technical data on the reception of VOA signals, but selective jamming still occurs. Regulations proscribing satellite dishes exist, but are evidently not being enforced.

Secretary Christopher made clear to the Chinese leadership our view that more needs to be done, and that he would closely watch and evaluate events of the next two months in preparing to make his recommendation to the President. As the Secretary wrote earlier this week in the Washington Post, "anyone who has worked to advance human rights knows that it is tough, slogging work and that progress usually comes only in incremental stages. I will not invent or inflate that progress." With that in mind, and with the strong support of the Congress, we will continue to work within the framework of the President's Executive Order to achieve further progress.

Mr. Chairman, distinguished Members, we appreciate your interest in, and support for, human rights throughout the world. Thank you for the opportunity to meet with you today.

Executive Order 12850—Conditions for Renewal of Most-Favored-Nation Status for the People's Republic of China in 1994

May 28, 1993

Whereas, the Congress and the American people have expressed deep concern about the appropriateness of unconditional most-favored-nation (MFN) trading status for the People's Republic of China (China);

Whereas, I share the concerns of the Congress and the American people regarding this important issue, particularly with respect to China's record on human rights, nuclear nonproliferation, and trade;

Whereas, I have carefully weighed the advisability of conditioning China's MFN status as a means of achieving progress in these areas;

Whereas, I have concluded that the public interest would be served by a continuation of the waiver of the application of sections 402 (a) and (b) of the Trade Act of 1974 (19 U.S.C. 2432(a) and 2432(b)) (Act) on China's MFN status for an additional 12 months with renewal thereafter subject to the conditions below:

Now, Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. The Secretary of State (Secretary) shall make a recommendation to the President to extend or not to extend MFN status to China for the 12-month period beginning July 3, 1994

(a) In making this recommendation the Secretary shall not recommend extension unless he determines that:

—extension will substantially promote the freedom of emigration objectives of section 402 of the Act; and

—China is complying with the 1992 bilateral agreement between the United States and China concerning prison labor.

(b) In making this recommendation the Secretary shall also determine whether China has made overall, significant progress with respect to the following:

—taking steps to begin adhering to the Universal Declaration of Human Rights;

—releasing and providing an acceptable accounting for Chinese citizens imprisoned or detained for the non-violent expression of their political and religious beliefs, including such expression of beliefs in connection with the Democracy Wall and Tiananmen Square movements;

—ensuring humane treatment of prisoners, such as by allowing access to prisons by international humanitarian and human rights organizations;

—protecting Tibet's distinctive religious and cultural heritage; and

—permitting international radio and television broadcasts into China.

Sec. 2. The Secretary shall submit his recommendation to the President before June 3, 1994.

Sec. 3. The Secretary, and other appropriate officials of the United States, shall pursue resolutely all legislative and executive actions to ensure that China abides by its commitments to follow fair, nondiscriminatory trade practices in dealing with U.S. businesses, and adheres to the Nuclear Non-Proliferation Treaty, the Missile Technology Control Regime guidelines and parameters, and other nonproliferation commitments.

Sec. 4. This order does not create any right or benefit, substantive or procedural, enforceable by any person or entity against the United States, its officers, or employees.

William J. Clinton

The White House,
May 28, 1993.

TUESDAY, MARCH 22, 1994 A17

Warren Christopher

My Trip to Beijing Was Necessary

President Clinton has placed America's economic strength at the heart of our national security strategy in the post-Cold War world. Our administration's foreign policy, like our country, stands for open societies as well as open markets. We are convinced that the two are inseparably linked.

This balance shapes our approach toward China. As the president has said, our policy recognizes "the value of China and the values of America." This approach also guided my recent trip to Beijing in advance of the early June deadline for the president's decision on renewing most-favored-nation trade status. My purpose was to inform China's leaders of the urgent need to make further progress on human rights, and to reaffirm our intention to engage China constructively on the many issues where our interests coincide.

The United States seeks a broad, positive relationship with a strong, secure and prosperous China. We pursue many important common goals on a bilateral, regional and global basis. We share a powerful interest in a stable and secure Asia. Both nations have a strong interest in ensuring a non-nuclear Korean peninsula, and we have been cooperating to achieve that objective. And with drug trafficking, alien smuggling, environmental degradation and other global issues, our agenda is growing as we head toward the next century.

Our economic interests are also converging. China's explosive growth is increasingly attractive to American exporters and investors. We are determined to expand American participation in the Chinese market. China has an even more significant stake in open and profitable access to the American market. We account for almost 40 percent of China's total exports, and its trade surplus with the United States is more than \$20 billion.

But we must not assume that a free market in goods can produce or protect a free market in ideas. Nor can we abandon our responsibility to support human rights around the world. The character of our relationship with China depends significantly on how the Chinese government treats its people. The American people would have it no other way.

Last May, President Clinton forged the first consensus—a consensus of *conscience*—on American policy toward China since the horrors of Tiananmen Square four years earlier. The core of our policy, the president said, would be "a resolute insistence" on overall significant progress on human rights if MFN for China was to be renewed once again. The executive order that the president issued was shaped in the closest consultation with Congress, and it won wide support from business leaders and human rights advocates alike. This approach avoided more rigid legislation and stipulated that trade, nonproliferation and other issues would be addressed through instruments other than MFN.

Our specific conditions for renewing MFN are reasonable and attainable. We are looking for positive trends—and we have made clear what is needed in the seven areas set forth in the president's executive order. We are not asking China to apply American prescriptions, only to adhere to the universal standards of human rights that bind most nations in the world today.

The president has reiterated that our intention is not to isolate China but to integrate it more fully into the global community and the global economy. Since last September, the administration has pursued a strategy of intensive diplomatic engagement with China to advance a range of security, political and economic goals. Within this comprehensive framework, we have given the Chinese the incentive and the latitude to demonstrate progress on human rights.

Congressional support for the president's policy has remained steady and strong. Last month more than two-thirds of the Senate voted to support the president's executive order and his approach toward human rights in China. And on the eve of my visit two weeks ago, 275 members of the House of Representatives sent me a letter backing the president's policy on MFN.

The suggestion that the Chinese discouraged my visit is a pure canard. Chinese Foreign Minister Qian has been encouraging me to visit for five months, most recently in our late January meeting in Paris. The Chinese confirmed plans for my visit in late February, adding only that I not arrive on March 10, the opening day of the National People's Congress. I left them by arriving on March 11.

Some say I should have canceled my trip, particularly in the face of the Chinese government's deplorable efforts to silence its citizens. But that course would have been a grave error. I went to Beijing to carry out the president's policy and to make sure that the Chinese government—at the highest levels—does not misunderstand our nation's position and does not underestimate the strong support that our policy commands from Congress and the American people. Despite some of the atmospherics, I believe that this message now has been clearly received by China's leaders. And I believe that they now realize that complacency is not an option.

In the course of very tough exchanges, we made progress on the two mandatory issues specified in the executive order. We signed a joint declaration to end exports to the United States of goods produced by prison labor. We also received concrete assurances on inspections of all suspected Chinese facilities, within strict time limits. And China promised to resolve the few outstanding emigration cases.

On other issues, China agreed for the first time to review interference with VOA signals. It agreed to begin talks with Red Cross experts to arrange visits to prisoners of conscience. China also supplied information on about 275 prisoners we had identified, and for the first time promised to provide information on the status of 106 imprisoned Tibetans.

I told China's leaders that these steps represented improvement, but more is needed. Particular progress is required with respect to the release of prisoners and the situation in Tibet. Anyone who has worked to advance human rights knows that it is tough, slogging work and the progress usually comes only in incremental stages. I will not invent or inflate that progress.

We will be seeking—and evaluating—further progress as we move toward decisions on renewing MFN. That goal is attainable if Beijing truly wants the more constructive relationship

The author is secretary of state.

103d Congress
2d Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1993

REPORT

SUBMITTED TO THE

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CHINA

The People's Republic of China (PRC) remains a one-party state ruled by the Chinese Communist Party through a 21-member Politburo and a small circle of officially retired but still powerful senior leaders. Almost all top civilian, police, and military positions at the national and regional levels are held by party members. Despite official adherence to Marxism-Leninism, in recent years economic decision-making has become less ideological, more decentralized, and increasingly market oriented. Fundamental human rights provided for in the Constitution are frequently ignored in practice, and challenges to the Communist Party's political authority are often dealt with harshly and arbitrarily.

Security forces, comprised of a nationwide network which includes the People's Liberation Army, the Ministry of State Security, the Ministry of Public Security, the People's Armed Police, and the state judicial, procuratorial, and penal systems, are poorly monitored due to the absence of adequate legal safeguards or adequate enforcement of existing safeguards for those detained, accused, or imprisoned. They are responsible for widespread and well-documented human rights abuses, including torture, forced confessions, and arbitrary detentions.

A decade of rapid economic growth, spurred by market incentives and foreign investment, has reduced party and government control over the economy and permitted ever larger numbers of Chinese to have more control over their lives and livelihood. Despite significant income disparities between coastal regions and the interior, there is now a growing "middle class" in the cities and rural areas as well as a sharp decline in the number of Chinese at the subsistence level. These economic changes have led to a de facto end to the role of ideology in the economy and an increase in cultural diversity. An example of this is the media, which remains tightly controlled with regard to political questions, although it now is free to report on a wider variety of other issues.

The Government took some positive steps on human rights issues during 1993. It released some prominent political prisoners early or on medical parole; many had served long terms in prison. The Government still has not provided a full or public accounting of the thousands of persons detained during the suppression of the 1989 democracy movement, when millions of students, workers, and intellectuals defied the Government and participated in public demonstrations. Most of these detainees appear to have been released, however, some after serving periods of detention without charges having been brought and some after having completed their prison sentences. The Government says it has released the remaining imprisoned or detained Vatican loyalists among the Catholic clergy. Although it continues to restrict the movements and activities of some elderly priests and bishops, the Government announced in November that two priests, whose movements had been restricted, were

free to return to their homes. The authorities also allowed a number of prominent political dissidents to leave China in 1993. In November the Government announced it would give positive consideration to a request from the International Committee of the Red Cross (ICRC) to visit China.

Nevertheless, the Government's overall human rights record in 1993 fell far short of internationally accepted norms as it continued to repress domestic critics and failed to control abuses by its own security forces. The Government detained, sentenced to prison, or sent to labor camps, and in a few cases expelled from the country, persons who sought to exercise their rights of freedom of assembly and speech. The number of persons in Chinese penal institutions considered political prisoners by international standards is impossible to estimate accurately. In 1993 hundreds, perhaps thousands, of political prisoners remained under detention or in prison. Physical abuse, including torture by police and prison officials persisted, especially in politically restive regions with minority populations like Tibet. Criminal defendants continue to be denied legal safeguards such as due process or adequate defense. In many localities, government authorities continued to harass and occasionally detain Christians who practiced their religion outside the officially sponsored religious organizations.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. *Political and Other Extrajudicial Killing.*—There were accounts of extrajudicial killings by government officials in 1993. A few cases resulted in severe punishment for the officials involved and were widely publicized as admonitory examples. Local officials beat to death an Anhui farmer in February after he protested the level of taxes and fees. Those found directly responsible for the beating, including a local public security official, received long prison terms and, in one case, a death sentence. Other officials were dismissed or disciplined. Also, in another well-publicized case, the powerful local Communist party secretary of a village near Tianjin was sentenced in August to 20 years in prison for obstruction of justice and other offenses related to a December 1992 beating death. Those who actually took part in the beating also received long prison terms.

The official responses to other cases served to cover up abuses, however. Credible reports indicated that a Shaanxi man beaten by public security officials in March, during a raid on an unauthorized Protestant gathering, died as a result of his injuries and the lack of timely medical care while in police custody. An official autopsy ascribed the death to an unrelated illness.

Because the Government often restricts access to such information, it is impossible to determine the total number of such killings. However, according to a credible report issued in 1993 by a human rights group, at least 12 persons died in 1992 as a result of torture while in police custody.

b. *Disappearance.*—There were no reported cases in 1993 in which persons who disappeared were suspected to have been killed by officials, however, the Government has still not provided a comprehensive, credible public accounting of all those missing or detained in connection with the suppression of the 1989 demonstrations.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Cases of torture and degrading treatment of detained and imprisoned persons persisted. Both official Chinese sources and international human rights groups reported many instances of torture. Persons detained pending trial were particularly at risk as a result of weaknesses in the legal system, including the emphasis on obtaining confessions as a basis for convictions and the lack of access to prisoners, even by family members, until after formal charges are brought, a step that can be delayed for months. Former detainees have credibly reported the use of cattle prods and electrodes, prolonged periods of solitary confinement and incommunicado detention, beatings, shackles, and other forms of abuse against detained women and men.

While generally refusing to allow impartial observers to visit prisoners, officials stated that internal monitoring and laws to prevent and punish abuses continue to be strengthened. Procurator General Liu Fuzhi said in March that 2,800 procuratorate offices had been set up in jails and detention centers to safeguard the welfare of detainees. In response to a call by the Chairman of the National People's Congress (NPC), a national-level procuratorial conference held in Shanghai in early April focused on measures to improve the Procuratorate's supervision of law enforcement personnel and government officials who violate the civil rights of citizens. In August the Guangdong provincial public security bureau issued a regulation forbidding police torture during interrogations. In April China told the U.N. Committee Against Torture that 339 cases of torture to extract confessions were investigated during 1992, 209 cases were reported to the Procuratorate with a view to prosecu-

tion, and 180 prosecutions were brought. No information on convictions or punishments was provided. While Chinese officials said in December that 23 prison officials had been punished in serious cases of mistreatment of prisoners, the number of actual incidents of torture and ill-treatment by government officials is almost certainly far greater than this number.

Conditions of imprisonment for political prisoners vary widely. Some prisoners, including the student leader Wang Dan, who was released in February, have stated they were treated reasonably well. Credible reports indicate others have been abused. Political prisoners are often intermingled with common criminals. Credible reports persisted in 1993 that Liu Gang, a political prisoner held at a Liaoning labor camp, suffers ill health as a result of beatings and other mistreatment, and that prison officials instigated some beatings by cellmates. Officials strongly denied these allegations and arranged for an interview with Liu and his jailers, which was published in August by a Chinese English-language journal. They declined repeated requests by foreign groups to allow access to the jailed dissident by independent observers.

There was limited evidence that, at least in a few cases, detained dissidents have been incarcerated in psychiatric institutions and treated with drugs. The lack of independent outside access to such persons made it impossible to verify the reports. Shanghai dissident Wang Miaogen was detained by public security officials in May and committed to a mental institution after he attempted to protest the holding of the East Asia games. Wang had earlier chopped off four of his fingers in a protest over alleged persecution. Wang Wanxing, detained in 1992 while attempting to stage a one-man protest on Tiananmen Square, continued to be held in a Beijing-area mental hospital.

Conditions in Chinese penal institutions are generally harsh and frequently degrading, and nutritional and health conditions are sometimes grim. Medical care for prisoners has been a problem area, despite official assurances that prisoners have the right to maintain good health and receive prompt medical treatment if they become ill. In 1993 political prisoners who reportedly had difficulties in obtaining timely and adequate medical care included Wang Juntao, Chen Ziming, and Ren Wandong. Medical paroles may be granted to ailing prisoners, and 1989 detainee Li Guiren was released in January to obtain medical treatment. Working conditions for prisoners in many facilities are similar to those in ordinary factories, but some prisoners working in penal coal mines and at other sites must endure dangerous conditions (see Section 6.c.).

Political prisoner Qi Dafeng continued to serve a 2-year sentence in a coal mine in Anhui, where he had been sent under the nonjudicial "reeducation through labor" program in late 1992.

d. *Arbitrary Arrest, Detention, or Exile.*—China's Criminal Procedure Law prescribes arbitrary arrest or detention, limits the time a person may be held in custody without being charged, and requires officials to notify the detainee's family and work unit of the detention within 24 hours. These provisions are subject to several important exceptions, including the sweeping provision that notification may be withheld if it would "hinder the investigation" of a case. Senior judicial officials acknowledged in 1993 that limits on detention are frequently ignored in practice or circumvented by various informal mechanisms. In numerous cases, the precise legal status or location of detainees is unclear. Public security authorities often detain people for long periods of time under mechanisms not covered by the Criminal Procedure Law. These include unpublished regulations on "taking in for shelter and investigation" and "supervised residence" as well as other methods not requiring procuratorial approval. According to the Chinese media, close to 1 million detentions under "shelter for investigation" have been carried out annually in recent years. No statistics were available to indicate the usual length of these detentions, but at least some lasted several months. Links between local officials and business leaders have resulted in scattered detentions as a means of exerting pressure in economic disputes. The legality of detentions may be judicially challenged under the Administrative Procedures Law, but such challenges are rare and there is little evidence that this is an adequate or timely remedy for improper actions. There is no judicially supervised system of bail, but at the discretion of public security officials some detainees are released pending further investigation.

Political dissidents are often detained or charged for having committed "crimes of counterrevolution" under Articles 90 through 104 of the Criminal Law. Counterrevolutionary offenses range from treason and espionage to spreading counter-revolutionary propaganda. These articles have also been used to punish persons who organized demonstrations, disrupted traffic, disclosed official information to foreigners, or formed associations outside state control. Detention and trial of dissidents on other charges is also possible. People participating in unauthorized reli-

gious organizations may be charged with criminal offenses such as receiving funds from abroad without authorization or changing such funds on the black market. Legal provisions requiring family notification and limiting length of detention are often ignored in political cases. Liao Jia'an, a university student in Beijing detained in 1992 for peaceful expression of his political views, was held for a year before being formally arrested in mid-1993 for counterrevolutionary crimes.

A well-documented estimate of the total number of those subjected to new or continued arbitrary arrest or detention for political reasons is not possible due to the Government's tight control of information. Individuals reported detained are sometimes released without charge after several days or weeks of interrogation. There were several reported lengthier detentions of dissidents, including Sun Lin, Wang Miaogen, and Zhang Xianliang, in Shanghai during 1993. Sun was released in August after 5 months in detention. Democracy activists Qin Yongmin, Yang Zhou, and Zheng Xuguang were detained in November in connection with the formation of a group called the "Peace Charter." Yang Zhou was released from detention on December 31, but the authorities had not provided information on the status or location of the other peace charter detainees. Several dozen Tibetans were also reported to have been detained after participation in proindependence demonstrations or activities (see Section 5). Gendun Rinchen, a Tibetan tour guide who had been detained in May 1993, was released on January 14, 1994.

e. Denial of Fair Public Trial.—Officials insist that China's judiciary is independent but acknowledge that it is subject to the Communist Party's policy guidance. In actuality, party and government leaders almost certainly predetermine verdicts and sentences in some sensitive cases. According to the Constitution, the court system is equal in authority to the State Council and the Central Military Commission, the two most important government institutions. All three organs are nominally under the supervision of the National People's Congress. The Supreme People's Court stands at the apex of the court system, followed in descending order by the higher, intermediate, and basic people's courts.

Due process rights are provided for in the Constitution but are often ignored in practice. Both before and after trial, prisoners are subject to severe psychological pressure to confess their "errors." Defendants who fail to "show the right attitude" by confessing their crimes are typically sentenced more harshly. Despite official media and other reports that indicate coerced confessions have led to erroneous convictions, a coerced confession is not automatically excluded as evidence. According to judicial officials, however, confessions without corroborating evidence are an insufficient basis for conviction.

Accused persons are given virtually no opportunity to prepare a defense in the pretrial process, during which the question of guilt or innocence is essentially decided administratively. Defense lawyers may be retained only 7 days before the trial. In some cases even this brief period has been shortened under regulations issued in 1983 to accelerate the adjudication of certain serious criminal cases. Persons appearing before a court are not presumed innocent; despite official denials, trials are essentially sentencing hearings. Conviction rates average over 99 percent. There is an appeal process, but initial decisions are rarely overturned, and appeals generally do not provide meaningful protection against arbitrary or erroneous verdicts. Like the initial court verdict, the judgment of the Appeals Court is subject to Communist Party "guidance."

Under the Criminal Procedure Law, persons "exempted from prosecution" by procurators are deemed to have a criminal record, despite the lack of a judicial determination of guilt. Such provisions can be applied in "counterrevolutionary crimes" as well as for ordinary criminal offenses. In August Shanghai activists Sun Lin, Yao Tiansheng, and Han Lifa were "exempted from prosecution" for counterrevolutionary offenses and released.

Some officials have acknowledged that trials in China are conducted too rapidly. These officials state that China's 70,000 lawyers, most of whom are engaged in commercial law, are insufficient to meet the country's expanding legal needs and point to the Government's intention to increase this number to at least 150,000. Knowledgeable observers report that defense attorneys appear in only a small number of criminal trials. Under Chinese law, there is no requirement that the court appoint a defense attorney for the defendant unless the defendant is deaf, dumb, or a minor. When attorneys do appear, they have little time to prepare a defense and rarely contest guilt; their function is generally confined to requesting clemency. Defense lawyers, like other Chinese, generally depend on an official work unit for employment, housing, and many other aspects of their lives. They are therefore often reluctant to be viewed as overzealous in defending persons accused of political offenses.

The need for adequate, independent legal aid is increasingly understood in legal circles and within the Government. In many cities, law firms are being organized

outside the framework of established government legal offices. These firms are self-regulating and do not have their personnel or budgets determined directly by the State. The Minister of Justice announced in October that China would gradually increase the number of autonomous law firms from the current total of 410.

The Criminal Procedure Law requires that all trials be held in public, except those involving state secrets, juveniles, or "personal secrets." Details of cases involving "counterrevolutionary" charges, however, have frequently been kept secret, even from defendants' relatives, under this provision. The 1988 Law on State Secrets affords a ready basis for denying a public trial in cases involving "counterrevolution."

Lack of due process is particularly egregious when defendants receive the death sentence. Chinese officials refuse to provide comprehensive statistics on death sentences or executions, but hundreds of executions are officially reported annually. The actual numbers may be much higher. All death sentences are nominally reviewed by a higher court. Reviews are usually completed within a few days after sentencing and consistently result in a perfunctory confirmation of sentence. However, no executions for political offenses are known to have occurred in 1993.

In addition to the formal judicial system, government authorities can assign persons accused of "minor" public order and "counterrevolutionary" offenses to "reeducation through labor" camps in an extrajudicial process. In 1990 Chinese officials stated that 869,934 Chinese citizens had been assigned to these camps since 1980, with about 80,000 assigned each year. Chinese officials reported 120,000 prisoners were undergoing "reeducation through labor" at the end of 1993. Other estimates of the number of inmates are considerably higher. Terms of detention run from a normal minimum of 1 year to a maximum of 3 years. The "labor reeducation" committee which determines the term of detention may extend an inmate's sentence for an additional year. Under a State Council regulation issued in early 1991, those sentenced to "reeducation through labor" may ask the committee to reconsider their decision. Since 1990, "reeducation through labor" sentences may also be judicially challenged under the Administrative Procedures Law. While some persons have gained reduction or withdrawal of their sentence after reconsideration or appeal, in practice these procedures are rarely used, and short appeal times, lack of access to lawyers, and other problems weaken their potential assistance in preventing or reversing arbitrary decisions.

The system of "reeducation through labor" sometimes is used by security authorities to deal with political and other offenders without reference to even the nominal procedures and protections the formal criminal process offers. In Shanghai, Fu Shenqi and Zhang Xianliang were given 3-year "reeducation through labor" sentences in July for "provoking incidents" and "inciting trouble" which disturbed public order.

Government officials deny that China has any political prisoners, asserting that persons are detained not for the political views they hold, but because they have taken some action which violates the Criminal Law. The number of persons in Chinese penal institutions considered political prisoners by international standards is impossible to estimate accurately. Hundreds, perhaps thousands, of political prisoners remained imprisoned or detained. Estimates by some foreign researchers of the number of political prisoners are much higher. Many if not most people held for political offenses are charged as counterrevolutionaries. Chinese officials said in December there were 3,172 persons serving sentences for counter-revolutionary crimes, down from a figure of 3,317 given to an American human rights monitor in October. As part of the October figure, officials also indicated that 560 persons convicted of counterrevolutionary crimes had been paroled. Those convicted of counterrevolutionary crimes make up 0.2 percent of the total prisoner population of 1.22 million, but they are about 5 percent of total parolees. As recently as November 1992, an Australian delegation was told there were 4,000 in prison for counterrevolutionary crimes. All these estimates almost certainly include a substantial number of persons convicted of espionage or other internationally recognized criminal offenses. At the same time, the figures exclude many political prisoners detained but not charged, persons held in labor reeducation camps and an undetermined number of persons sentenced for criminal offenses due solely to their non-violent political or religious activities.

Many prominent activists, including Chen Ziming, Wang Juntao, and Liu Gang (all three held since 1989), remained imprisoned in 1993. Some persons detained for political reasons were released on parole before the end of their sentences. Those released early included longtime political prisoners Wei Jingsheng, Wang Xizhe, and Xu Wenli, and Tiananmen-related detainees Wang Dan, Gao Shan, Zhai Weimin, Wu Xuecan, and Guo Haifeng. Shanghai activist Fu Shenqi was released in March but reimprisoned on other charges in June. Even after release, such persons have a criminal record, and their status in society, ability to be employed, freedom to

travel, and numerous other aspects of their lives are often severely restricted. Economic reform and social change have somewhat diminished these problems, but some people continue to experience serious hardships. For example, the families of political prisoners sometimes encounter difficulty in obtaining or keeping employment and housing. Zhang Fengying, wife of imprisoned activist Ren Wanding, remained in poor housing conditions in 1993. Zhang and her teenage daughter were evicted from their apartment in 1992. Ren's work unit owns the apartment. While the work unit asserted it wanted to reassign the housing to another worker, the apartment reportedly has remained vacant.

f. *Arbitrary Interference with Privacy, Family, Home, or Correspondence.*—The authorities extensively monitor and regulate personal and family life, particularly in China's cities. Most persons in urban areas still depend on their government-linked work unit for housing, permission to marry or have a child, approval to apply for a passport, and other aspects of ordinary life. The work unit, along with the neighborhood watch committee, is charged with monitoring activities and attitudes. However, changes in the economic structure, including the growing diversity of employment opportunities and the increasing market orientation of many work units, are undermining the effectiveness of this system. Search warrants are required by law before security forces can search premises, but this provision is often ignored. In addition, both the Public Security Bureau and procuracy apparently can issue search warrants on their own authority.

The 1982 Constitution states that "freedom and privacy of correspondence of citizens . . . are protected by law," but, according to a Western expert on Chinese law, legislation for this purpose does not exist. In practice, some telephone conversations are recorded, and mail is frequently opened and censored. The Government often monitors and sometimes restricts contact between foreigners and Chinese citizens, particularly dissidents.

The Government has continued its effort to control citizens' access to outside sources of information, selectively jamming Chinese language broadcasts of the Voice of America (VOA) and the British Broadcasting Corporation. Despite the effort made to jam VOA, the effectiveness of the jamming varies considerably by region, with audible signals reaching most parts of China. A small but rapidly growing segment of the population has access to satellite television broadcasts. Authorities issued new regulations on the installation and operation of satellite dishes in October, requiring permits for operation and banning private ownership and operation except under limited circumstances. However, China has not been very successful in implementing past regulations restricting the use of satellite dishes. Satellite television dishes are widely available for sale, and a licensing scheme which nominally controls purchase of the equipment is loosely enforced.

China's population has roughly doubled in the past 40 years to nearly 1.2 billion people, over a fifth of all humanity. In the 1970's and 1980's China adopted a comprehensive and highly intrusive family planning policy. This policy most heavily affects Han Chinese in urban areas. For urban couples, obtaining permission, usually issued by their work units, to have a second child is very difficult. Numerous exceptions are allowed for the 70 percent of Han who live in rural areas. Ethnic minorities are subject to less stringent population controls. Enforcement of the family planning policy is inconsistent, varying widely from place to place and year to year.

The population control policy relies on education, propaganda, and economic incentives, as well as more coercive measures, including psychological pressure and economic penalties. Rewards for couples who adhere to the policy include monthly stipends and preferential medical and educational benefits.

Disciplinary measures against those who violate the policy include stiff fines, withholding of social services, demotion, and other administrative punishments, including, in some instances, loss of employment. Unpaid fines have sometimes resulted in confiscation or destruction of personal property. Because penalties for excess births may be levied against local officials and the mothers' work units, many persons are affected, providing multiple sources of pressure.

Physical compulsion to submit to abortion or sterilization is not authorized, but Chinese officials acknowledge privately that there are still instances of forced abortions and sterilizations in remote, rural areas. Officials maintain that, when discovered, abuses by local officials result in discipline or retraining. They admit, however, that stronger punishment is rare and have not documented any cases where punishment has occurred. A sharp reported drop in fertility rates in 1991-92 sparked concern about a possible upturn in incidents of coercion. One cause for worry about such increased pressures was a policy change in early 1991 making local political officials more directly responsible for success in meeting family quotas. There was strong evidence, however, that the magnitude of the reported fertility drop was

sharply exaggerated, in part because the policy change intensified strong existing incentives for officials and families to underreport births.

At least five provincial governments have implemented regulations with eugenics provisions, beginning with Gansu in 1988. These regulations seek to prevent people with severe mental handicaps from having children. National family planning officials say they oppose such legislation, but the Government has taken no action to overturn these local laws.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Freedom of speech and self-expression remain severely restricted, although there has been an easing of the limits imposed during the post-Tiananmen crackdown. Citizens are not permitted to publish or broadcast criticism of senior leaders or opinions that contradict basic Communist Party doctrine which provides for a Socialist state under the party's control, or to make speeches which contain such criticism or opinions. The Government interprets the Communist Party's "leading role" as circumscribing the various individual rights guaranteed in the Constitution. People who violate these guidelines are warned and often punished. Gao Yu, a former writer of a now banned periodical, was charged in October with "leaking state secrets abroad" in connection with articles published in Hong Kong. Xi Yang, a Hong Kong reporter, was detained in September for "stealing" financial secrets in connection with articles published in Hong Kong.

Domestic television and radio broadcasting and the press remain under party and government control and are used to propagate the currently acceptable ideological line. A more lively tabloid sector continued to expand in 1993, and the circulation of major propaganda-oriented dailies continued to slip.

Radio talk shows also flourished and, although they generally avoided politically sensitive subjects, they provided some opportunity for Chinese to discuss, and sometimes question officials about, public issues, including corruption. Under official pressure, the film "Farewell My Concubine," which caused controversy because of its implicit criticism of the cultural revolution and portrayal of a homosexual relationship, was withdrawn from distribution in July after showings in Beijing and Shanghai. After further editing, it was rereleased in September.

The Government has continued to impose tight controls on colleges, universities, and research institutes. However, Beijing University and Shanghai's Fudan University stopped sending students to a full year of training and ideological indoctrination at military camps, a requirement imposed in 1989. The heavy ideological control of academic institutions and media censorship continued to force Chinese journalists and scholars to exercise caution in 1993. Many scholars, including some of China's most prominent, have been deterred from exercising free speech and have declined opportunities to publish or present papers on subjects that they fear could be construed as sensitive. On some less sensitive but still controversial subjects, such as economic policy, legal reform and even civil rights issues, the Government has tolerated more vigorous public discussion. Some authors who were considered politically unacceptable after 1989, such as legal scholar Yu Haocheng, were able to overcome bans and regain at least limited ability to get articles published in 1993.

b. *Freedom of Peaceful Assembly and Association.*—While the Constitution provides for freedom of peaceful assembly and association, these rights are severely restricted in practice. The Constitution provides, for example, that such activities may not infringe "upon the interests of the State," and in practice protests against the political system or its leaders are proscribed. Demonstrations involving expression of dissident political views are denied permits and suppressed if held. Qin Yongmin was briefly detained several times when he attempted to leave his native Wuhan for Beijing to protest against the capital's bid to host the Olympic Games in the year 2000 (see Section 1.d). However, some small-scale demonstrations on nonpolitical grievances are tolerated in practice. In February there were two small demonstrations at the gate of the Zhongnanhai leadership compound in Beijing by women laid off from a state steel firm. In August authorities also tolerated generally peaceful demonstrations in several provinces by Muslims, sometimes numbering in the thousands, who were protesting a book they found offensive. The book was subsequently banned. Demonstrators protesting the same book in Qinghai in October, however, were met with force when Muslim demonstrators threatened to take their protest to Beijing. According to credible reports, there were at least nine deaths.

Public security forces acted with more restraint than in the past to demonstrations in Lhasa in May, which began with a small protest on economic grievances but attracted hundreds of additional participants, including many who shouted proindependence slogans and some who threw rocks. Several dozen persons were believed to have been at least briefly detained in the wake of the protests, but reports of a handful of deaths or serious injuries from the impact of tear gas projectiles ap-

peared to be erroneous. According to human rights organizations, smaller scale protests were reported to have occurred frequently in the Tibetan capital and resulted in swift detention for the participants. Gendun Rinchen and Lobsang Yonten were detained in May, apparently because of alleged proindependence activities, and they were held through the remainder of the year before being released in January 1994. Tibetan political prisoners like Yulo Dawa Tsering, Ngawang Pulchung, and Jempel Tsering remained imprisoned in 1993. While repression continued, there was at the same time a continuation of limited dialog on Tibet with representatives of the Dalai Lama.

The Communist Party organizes and controls most professional and other mass associations. All organizations are required by 1990 regulations to be officially registered and approved. Ostensibly aimed at secret societies and criminal gangs, the regulations also deter the formation of unauthorized political or labor organizations. They have also been used to disband groups, such as unregistered house churches, deemed potentially subversive. Security forces maintain a close watch on groups formed outside the party establishment.

c. *Freedom of Religion.*—Religious freedom in China is subject to restrictions of varying severity. While the Constitution affirms toleration of religious beliefs, the Government restricts religious practice outside officially recognized and government-controlled religious organizations. The management and control of religion is the responsibility of religious affairs bureaus, which are staffed by officials who rarely are believers in religion. Communist Party officials state that party membership and religious belief are incompatible. This places a serious limitation on religious believers, since party membership is required for almost all high positions in government and state-owned businesses.

The Government, after forcefully suppressing all religious observances during the 1966–76 cultural revolution, began in the late 1970's to restore or replace confiscated churches, temples, mosques, and monasteries. The official religious organizations administer more than a dozen Catholic and Protestant seminaries, nine institutes to train imams and Islamic scholars, and institutes to train Buddhist monks. Students who attend these institutes must demonstrate "political reliability," and all graduates must pass an examination on their theological and political knowledge to qualify for the clergy. The Government permitted Catholic seminarians from several cities to go to the United States in 1993 for additional religious studies. There have also been increased contacts between China and the Vatican.

The Government supervises the publication of religious material for distribution to ensure religious and political conformity. Religious books are not permitted in ordinary bookstores, and there are persistent complaints that the number of Bibles and amounts of other religious materials allowed to be printed fall far short of demand. Religious proselytizing is officially restricted to government-registered and sanctioned places of worship. Unauthorized proselytizing is proscribed and sometimes punished, although some discreet proselytizing and distributing of religious texts outside official channels is tolerated. Local authorities have confiscated private property under the guise of searching for illegal religious materials. Officially sanctioned religious organizations are permitted to maintain international contacts as long as these do not entail foreign control, but proselytizing by foreign groups is forbidden by law and regulation.

Buddhists are by far the largest body of religious believers in China. The Government estimates that there are 100 million Chinese Buddhists, most of whom are from the dominant Han ethnic group. Other Buddhists belong to Tibetan, Mongolian, and other ethnic groups. Han Buddhist leaders generally cooperate with the Government, and there have been few complaints of government restrictions.

In Tibet, however, where Buddhism and Tibetan nationalism are closely intertwined, relations between Buddhists and secular authorities continued to be tense in 1993. The Government tightly controls Tibetan Buddhism and does not tolerate religious manifestations that advocate Tibetan independence.

The Government condemns the Dalai Lama's political activities and his leadership of a "government in exile," but recognizes him as a major religious figure and has tolerated the open veneration of the Dalai Lama by Tibetans. The Government has spent large amounts of money on reconstruction of the main sacred sites, including the Potala Palace and a grand stupa to house the remains of the 10th Panchen Lama. Chinese officials have also publicly asked the Dalai Lama to assist in the process of finding the reincarnation of the 10th Panchen Lama, who died in 1989.

The practice of religion in Tibet is hampered, however, by the limits the Government imposes on religious education and on the number of monks in the religious community compared to traditional norms. Monks at some Tibetan monasteries known for their opposition to Chinese rule face severe travel restrictions and intense monitoring.

According to government figures, there are 17 million Muslims in China. In some areas with large Muslim populations, there continues to be concern regarding restrictions on the building of mosques and the religious education of youths under 18. Following the 1990 unrest in Xinjiang, the authorities issued regulations further restricting religious activities and teaching. China permits Muslim citizens to make the hajj to Mecca, and the number of those making the hajj has significantly increased in recent years. Nongovernment sources indicate that about 5,000 Chinese made the hajj in 1992.

The number of Christians has grown rapidly in recent years, albeit from a small base. Only those Christian churches affiliated with either the Catholic Patriotic Association or the (Protestant) Three-Self Patriotic Movement, which the Government established in the 1950's to eliminate perceived foreign domination of Christian groups, may operate openly. Active unofficial religious movements pose an alternative to the state-regulated churches. The unofficial, Vatican-affiliated, Catholic Church claims a membership far larger than the 3.7 million registered with the official Catholic church, though actual figures are unknown. In addition to the 5 million persons who are officially counted as following Protestantism, a large number of Protestants worship privately in "house churches" that are independent of government control.

Sporadic repression in some areas has reflected official concern over the Government's inability to control the rapid growth of membership in Christian groups. There continued to be credible reports in 1993 of efforts by authorities in some areas to rein in activities of the unapproved Catholic and Protestant movements, including raiding and closing a number of unregistered churches. In March public security officials disrupted a Protestant religious gathering in Shaanxi, beating many of those present. One man beaten later died, apparently of wounds suffered in the incident (see Section 1.a.). However, authorities in many areas tolerate the existence of unofficial Catholic and Protestant churches as long as they remain small and discreet. In some parts of China, official and underground churches seem to coexist and even cooperate. The Guangzhou House Church of Pastor Samuel Lamb (Lin Xiangao) continued to operate openly, although with frequent harassment by authorities.

A number of religious activists remained imprisoned in 1993, but others were released. There was some evidence that authorities have increasingly used short-term detentions, rather than long prison terms when dealing with unauthorized religious activities. Some of those released from penal detention were apparently placed under house arrest or other restrictions. The number of Catholic clerics in penal detention dropped sharply in 1992 and 1993, although the whereabouts of some reported to have been released could not be confirmed, and others remained under some restrictions. Catholic Gansu bishop Casimir Wang Milu and Hebei priest Pei Ronggui were released from long-term imprisonment during the year. Ministry of Public Security officials told a visiting U.S. official in October that there were no Catholic clerics remaining in detention. In November Bishop Peter Chen Jianzhang and auxiliary bishop Cosmas Shi Enxiang were reportedly released from either prison or house arrest in "old people's homes."

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government uses an identification card system to control and restrict individual residence location within the country. This system's effectiveness has eroded during China's shift to a more market-oriented economy. The need for a supplemental work force in the areas of fastest economic growth has led to official tolerance for a large itinerant population which is not in compliance with formal requirements to obtain permission to change residence. However, because this itinerant population lacks official status, access to housing, schooling, and the full range of employment opportunities can be restricted.

Some former inmates have been denied permission, under the "staying at prison employment" system, to return to their homes, a provision applicable to those incarcerated in both the "reform through labor" and the "reeducation through labor" systems. For those assigned to camps far from their residences, this constitutes a form of internal exile. The number of prisoners subject to this restriction is unknown. A Vice Minister of Justice told a British human rights delegation in late 1992 that no former prisoners were subject to such restrictions.

The Government routinely permits legal emigration and most foreign travel but has placed obstacles in the way of foreign travel by a few citizens on political or other grounds. Legal scholar Yu Haocheng continued to be unable to obtain permission to travel abroad. These obstacles extend to some dissidents' family members who have not themselves been active politically or accused of any wrongdoing by the Government. Other dissidents, including Hou Xiaotian, Li Honglin, and Qian Liyun, were eventually able to obtain the passports and exit permits needed to leave the country.

Regulations issued in 1990 require those college and university graduates who received free postsecondary education to repay the cost of their education to the State by working for 5 years or more before being eligible for passports to go abroad to study. For those who have overseas Chinese relatives or have not yet graduated, the regulations provide a sliding scale of tuition reimbursement exempting them from the work requirement. Implementation of these regulations has varied from place to place, and most students wishing to go abroad still managed to obtain passports. Persons subject to the regulations on study abroad appear to have had little trouble obtaining passports to visit relatives overseas. Political attitudes, however, are still a major criterion in selecting people for government-sponsored study abroad.

The Government has made a concerted effort to attract back to China persons who have studied overseas. To reassure them, Chinese citizens who return from overseas were exempted in 1992 from re-exit formalities, which had involved Public Security Bureau clearances. However, official media have stated that, before returning home, people who have joined foreign organizations viewed by the Government as hostile to China should quit them and refrain from activities that violate Chinese Law. Procurator General Liu Fuzhi warned in 1992 that people wanted by the public security authorities were not covered by the official assurances extended to other overseas scholars.

Some dissidents, such as Dai Qing and Liu Xiaobo, reentered China without incident in 1993. In August labor activist Han Dongfang, who had been allowed to leave for medical treatment in the United States in 1992, was expelled shortly after he returned. Han's passport was subsequently revoked by Chinese authorities on the grounds that he had engaged in activities hostile to China while overseas. Chinese border officials frustrated Han's several subsequent attempts to return to China. Another labor activist, Lu Jinghua, was refused entry in June when she arrived at the Beijing airport. Lu had fled China in 1989 before she could be arrested. A handful of prominent dissidents overseas continued to have difficulty extending or renewing passports.

The Government accepts the repatriation of citizens who have entered other countries or territories illegally. In 1993, in addition to the routine return of Chinese illegal immigrants found in Hong Kong, China accepted the return of several large groups of illegal immigrants from other countries, including Mexico, Honduras, and the Marshall Islands. Citizens illegally smuggled to other countries are often detained for a short time after their return to China to determine their identity and any past criminal record or involvement in smuggling activities. As a deterrent and to recover repatriation costs, authorities in some areas levy a fine of about \$1,000 equivalent on returnees.

China does not have legislation in place that would allow it to grant refugee status and, with the exception of Vietnamese refugees of Chinese ancestry, has generally repatriated persons of other nationalities seeking to be recognized as refugees. The Ministries of Foreign Affairs, Public Security, and Civil Affairs, in collaboration with the United Nations High Commissioner for Refugees (UNHCR), are writing legislation that would allow China to honor its obligation as a party since 1982 to the 1967 protocol relative to the status of refugees.

Although the Government denies having tightened its policy on accepting Vietnamese refugees, in recent years very few such refugees have actually been resettled in China. According to the UNHCR, from 1989 to 1992 China granted admission and provided resettlement to about 130 Vietnamese refugees who came to China to reunite with their families and gave temporary refuge to 35 Vietnamese who subsequently settled in third countries. There were credible reports that larger numbers of Vietnamese have remained in China without official harassment. China has cooperated with Hong Kong to reduce the flow of Vietnamese refugees into the colony. China has not participated in the Comprehensive Plan of Action negotiated at the International Conference on Indochinese Refugees in 1989 but generally has abided by its principles.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens lack the means to change their government legally and can not freely choose or change the laws and officials that govern them. Citizens vote directly only for county-level people's congress delegates. People's congress delegates at the provincial level are selected by county-level people's congresses, and in turn provincial-level people's congresses select delegates to the National People's Congress. According to the 1982 Constitution, the National People's Congress (NPC) is the highest organ of state power. It elects the President and Vice President, decides on the choice of the Premier, and elects the Chairman of the Central Military Commission.

In some elections, voters are offered more candidates than positions, allowing a modest degree of choice among officially approved candidates. There were credible reports in 1993 that the candidates most favored by authorities were defeated in a handful of county-level elections and in at least two elections of governors by provincial people's congresses.

As is the case with the NPC, the election and agenda of people's congresses at other levels also remain under tight control by the Communist Party, the paramount source of political authority in China. The Constitution was amended in 1993 to ratify the existence of small "democratic" parties, but these play only a minor consultative role at most, and all pledge allegiance to the Communist Party. Thus, the Communist Party retains an explicit monopoly on political decision-making. The requirement that associations register and be approved makes it difficult for independent interest groups to form and affect the system. Within the Communist Party, a closed inner circle of a few senior leaders reserves the right to set ultimate policy directions. Some hold key positions within the standing committee of the Politburo, the Central Military Commission, or other organs, while others who are nominally retired wield great influence on at least selected issues.

Reversing previous moves to separate the party and government apparatus, at the National People's Congress in April General Secretary Jiang Zemin and several other senior party members were named to hold concurrent government positions.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no independent Chinese organizations that publicly monitor or comment on human rights conditions in China. The Government has made it clear it will not tolerate the existence of such groups. Authorities in Shanghai took no action on a March application by several persons to register a proposed "human rights association." Public criticism of the Government's human rights record can be interpreted as "counterrevolutionary" activity and punished accordingly.

Limited academic study and discussion of concepts of human rights have been promoted since 1991. Research institutes in Shanghai and Beijing, including the Chinese Academy of Social Sciences, have organized symposia on human rights, established human rights research centers, and visited other nations to study human rights practices in these countries. Such activities appear to have originated in a desire to improve China's image abroad and strengthen the Government's ability to respond to criticism of its human rights record. Whatever the motivation, this process of study and dialog has exposed more Chinese to international standards and concepts of human rights. Three official White Papers on human rights subjects were published in 1991 and 1992. While the reports stridently defended Chinese practices and glossed over fundamental problems, they sparked a limited debate among academic experts on human rights problems in China that continued in 1993.

Despite the Government's professed adherence to the United Nations Charter, which mandates respect for and promotion of human rights, Chinese officials accept only in theory the principle that human rights are universal. They argue that each nation has its own concept of human rights, grounded in its political, economic, and social system and its historical, religious, and cultural background. China was active in international forums, including the World Conference on Human Rights in June and the annual U.N. Commission on Human Rights meeting in February, in support of this view and to deflect attempts to discuss China's human rights record. China remains reluctant to accept criticism of its human rights situation by other nations or international organizations. Its officials often criticized reports by international human rights monitoring groups, as well as past Department of State reports on human rights practices in China. By and large, Chinese officials continue to insist that criticism of China's human rights practices constitutes interference in China's internal affairs. Nevertheless, in 1993 Chinese authorities expanded their dialog with foreign governments on human rights issues in talks with a number of visiting delegations from the United States and other countries and also during visits abroad by Chinese leaders.

Chinese authorities have refused most requests by foreign human rights delegations to meet with political prisoners but did allow U.S. human rights officials to visit Yulo Dawa Tsering in Drapchi prison in Lhasa in October. Representatives of some international human rights groups visited China in 1993 but did so in an individual capacity and did not engage in an official dialog with the Government. A private American human rights monitor, however, did meet with midranking government officials on several occasions to discuss specific human rights cases.

Finally, while China has continued to engage in a human rights dialog with foreign critics, it has consistently taken the position that human rights practices should be assessed not on the basis of universal principles but rather in the context of local economic, political, and cultural conditions. The Government also maintains that human rights issues are internal matters and that external intervention on human rights issues constitutes interference with its sovereignty.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

While laws exist to protect minorities and women, in practice discrimination based on ethnicity, sex, and religion has persisted. Minorities, however, do benefit from an official policy of "privileged treatment" in marriage policy, family planning, university admission, and employment, as well as from disproportionate infrastructure investment in some minority areas.

Women.—The 1982 Constitution states that "women in the People's Republic of China enjoy equal rights with men in all spheres of life" and promises, among other things, equal pay for equal work. In fact, most women employed in industry work in lower skilled and lower paid jobs. Women hold relatively few positions of significant influence within the party or government structure. Persistent problems have remained with regard to the status of women, who have often been the unintended victims of reforms designed to streamline enterprises and give workers greater job mobility. Many employers prefer to hire men to avoid the expense of maternity leave and child care.

Reports by women of discrimination, sexual harassment, unfair dismissal, demotion, and wage cuts have continued. In 1992 the NPC enacted legislation on the protection of the rights and interests of women designed to assist in curbing these types of sex-related discrimination. While the gap in the education levels of men and women is narrowing, men continue to constitute the majority of the educated class, particularly the highly educated.

The Government continued in 1993 to condemn strongly and take steps to prevent and punish the abduction and sale of women for wives and prostitutes, abuse of female children, violence against women, and female infanticide. It has severely punished a number of people accused of such crimes. No nationwide statistics were available on the extent of physical violence against women. A May study on family violence reported that in Shanghai from 29 to 33 percent of domestic disputes from 1991-92 involved physical violence. In another 1993 study on the social status of women, 21.2 percent of urban wives and 31.4 percent of rural wives said there was frequent or occasional violence during family quarrels. The abduction of women remains a serious problem in some areas where local officials have resisted efforts of central authorities to stop it. Many discriminatory practices are rooted in traditional rural attitudes which highly value boys as prospective earners and as future caretakers for elderly parents. A number of provinces have sought to reduce the perceived higher economic value of boys in providing old age support by establishing or improving pensions and retirement homes.

In many areas, the ready availability of sonograms has facilitated selective abortion of female fetuses, contributing to a growing gap in the ratio of reported male and female births. Insistence that local units meet population goals exacerbates the problem, since traditional-minded parents often wish to ensure they have one or more sons without incurring official penalties. The Government has condemned sex-selective abortion and stated it is tightening access to sonogram results.

Children.—China does not condone violence against children, and physical abuse can be grounds for criminal prosecution. In January 1992, China passed a national law on the protection of juveniles. According to Chinese media, China's infant mortality rate has declined to 45 per 1,000 live births, severe malnutrition among children under 5 years of age has been "virtually eliminated," 95 percent of children have received immunizations, and primary school enrollment is at 97 percent. In January an English-language magazine reported on the problem of child abuse, noting that physical punishment was widespread, citing four cases from 1992 where children died from abuse. According to one study from Zhejiang province, 60 percent of 200 children surveyed said they would be beaten if they did not do well in school. In addition, Chinese officials indicated in October that there were about 200,000 homeless children in China out of a total of 300 million children under age 18.

National/Racial/Ethnic Minorities.—The 55 designated ethnic minorities constitute just over 8 percent of China's total population. Most minority groups reside in areas they have traditionally inhabited, with standards of living often well below the national average. Government development policies have helped raise minority living standards but have at the same time disrupted traditional living patterns. The Dalai Lama continued to state his concern in 1993 that the Government's plan

to develop Tibet's economy would lead to a massive influx into Tibet of Han Chinese. Tens of thousands of non-Tibetan entrepreneurs without residence permits have come to Lhasa, capital of Tibet, to engage in business.

In some instances, the Government has tried to adopt policies responsive to minority sensitivities but in doing so has encountered the dilemma of how to respect minority cultures without damaging minority educational and economic opportunities. In Tibet and Xinjiang, for example, there are two-track school systems using standard Chinese and minority languages. Students may choose which system to attend. One acknowledged side effect of this policy to protect and maintain minority cultures has been reinforcement of a segregated society. Under this separate education system, those graduating from minority schools are at a disadvantage in competing for jobs, which require good spoken Chinese, in government and business. These graduates must take remedial language instruction before attending universities and colleges.

The Communist Party has an avowed policy of boosting minority representation in the Government and the party, and a few members of minorities occupy local and national leadership positions. However, ethnic minorities are effectively shut out of most positions of real political and decisionmaking power. Some minorities resent Han officials holding key positions in minority autonomous regions. Ethnic minorities in Tibet, Xinjiang, Qinghai, and elsewhere have demonstrated against Han Chinese authority, but central authorities have made it clear that they will not tolerate opposition to Beijing's rule in minority regions.

People with Disabilities.—There is no legislation to ensure that buildings, even new ones, are accessible to those with handicaps. A State Council committee was established in October to coordinate policy toward the disabled under China's 1990 law on the handicapped. The results of the eighth 5-year plan for handicapped people, which ended in 1992, were discussed in October; schools for the disabled increased from 400 in 1988 to 1,000 in 1992, and special education increased six-fold. But according to the Disabled Person's Federation, only 6 percent of disabled school-age children are receiving primary education. There are 40,000 welfare enterprises nationwide providing work for the handicapped, and 1.26 million have benefited from rehabilitation projects. Concern that the disabled will lose jobs as enterprises emphasize productivity has led to the creation of a pilot project in which all state enterprises will be required to hire a certain number of disabled workers. The handicapped still suffer from social isolation, especially in rural areas, and some handicapped children are given to orphanages. At the end of December, the Government announced plans to adopt a new law on eugenics, but specifics of the law were not available at year's end.

Section 6. Worker Rights

a. *The Right of Association.*—China's 1982 Constitution provides for "freedom of association," but the guarantee is heavily diluted by references to the interest of the State and the leadership of the Chinese Communist Party. The country's sole officially recognized workers' organization, the All-China Federation of Trade Unions (ACFTU), ostensibly independent, is in fact controlled by the Communist Party. Independent trade unions are illegal. Though union officials recognize that workers' interests may not always coincide with those of the Communist Party, the Union Law passed by the National People's Congress in March 1992 states that the union is a party organ and its primary purpose is to mobilize workers for national development. The 1993 revised Trade Union Law requires that the establishment of unions at any level be submitted to a higher level trade union organization for approval. The ACFTU is the highest such organization, and it has not approved the establishment of any independent unions. While the foreign press has reported that some exist, because of severe repression they operate only deep within the shadows. The vast majority of workers have no contact with any union other than the ACFTU. There are no provisions allowing for individual workers or unofficial worker organizations to affiliate with international bodies.

The ACFTU's primary attention remains focused on its traditional constituency, state sector workers. The Trade Union Law mandates that workers may decide whether to join the union in their enterprise. By official estimate, 10 percent of workers in collectively and state-owned enterprises have chosen for their own reasons not to join. There have been no reports of repercussions for workers who have not joined ACFTU unions. Diversification of enterprise types over the last decade of reform has vastly increased the number of workers outside this traditional sphere of the ACFTU. In fact, over half of China's nonagricultural work force is now largely nonunion and outside the state industrial structure—in collectives, village and township enterprises, private and individual enterprises, and foreign-invested enterprises. In township and village enterprises, one of the fastest growing sectors of the

economy, only one-tenth of 1 percent of workers are unionized. Unemployed workers are not considered union members.

Workers in companies with foreign investors are guaranteed the right to form unions, which then must affiliate with the ACFTU. According to Ministry of Labor national statistics, 30 percent of foreign-invested companies now have unions. Other official estimates show that about 10,000 trade unions with a total of 500,000 members have been established in the nearly 20,000 foreign-funded companies in Guangdong province. However, a 1993 embassy survey of foreign-invested ventures in Beijing indicated the unionization rate diminished from 60 percent in 1991 to 40 percent in 1993.

The right to strike, which had been included in China's 1975 and 1978 constitutions, was not retained in the 1982 Constitution. In general, the union law passed in 1992 assigned unions the role of mediators or go-betweens with management in cases of work stoppages or slowdowns. Nonetheless, well-documented work stoppages occurred in several locations in China during 1993. There were two highly visible strikes in Guangdong's Zhuhai City, namely a 3-day strike over wages at a joint-venture camera factory and a work stoppage at a joint-venture electrical components factory. Ministry of Labor officials broke with their past practice of denying the existence of strikes in China by giving details about recent strikes in Tianjin and Xian. Strikes in 11 foreign-invested enterprises in Tianjin were widely reported in the Chinese press. One particularly high profile case involved a foreign-owned footwear factory at which 1,200 workers struck over poor working conditions and alleged mistreatment of several of the workers by the management. The 11 enterprises were held up as examples of disregard for local regulations by foreigners and indications of the need to establish unions in foreign-invested enterprises. Strikes were uniformly resolved in favor of workers, and enterprises were required to bring facilities up to regulatory standards. Ministry of Labor officials have not provided any statistics on how many strikes occurred in 1993, but one Hong Kong newspaper reported that in the first half of 1993 there were 190 strikes and protests across China involving about 50,000 workers. It is not possible to determine the validity of this estimate.

Credible reports by foreign human rights organizations indicate that the Government has attempted to stamp out all clandestine union activity and that independent unions and worker groups feature prominently in lists of illegal organizations. In May four men were detained and later formally arrested for the crime of organizing a counterrevolutionary organization, the Shanghai Autonomous Workers Federation. Two of these men were released in early September. As noted in Section 2.d., labor activists Han Dongfang and Lu Jinghua have been refused reentry to China. The International Confederation of Free Trade Unions (ICFTU) alleges that in May and June of 1992 the Public Security Bureau (PSB) secretly arrested activists of the clandestine China Free Trade Union Preparatory Committee and appeared to have dismantled this organization. On May 15 another clandestine union group, the Free Trade Union of China, issued a manifesto. Preemptive arrests took place just before the June 4 Tiananmen anniversary. These included seven members of the clandestine Liberal Workers Union detained by the PSB to prevent them from circulating commemorative leaflets. Accurate figures on the number of Worker Autonomous Federation detainees still being held after the 1989 Tiananmen Square demonstrations are not available. The ICFTU alleges that hundreds of workers are still being held.

In response to an ICFTU complaint, the Governing Body of the International Labor Organization (ILO) in March requested that the Government modify "many provisions" of the Trade Union Act that are contrary to the principle of freedom of association, expressed concern at the severity of sanctions pronounced by the courts against members or leaders of Workers' Autonomous Federations, and asked that detained workers be released.

b. *The Right to Organize and Bargain Collectively.*—Under a 1988 law and current regulations, collective bargaining is permitted only by workers in private enterprises (which employ less than 3 percent of workers). There have been no reports of collective bargaining actually taking place. Most private enterprises are small and nonunionized. Thus far, without legal status as a collective bargaining body, the ACFTU's role has been limited to consultations with management over wages and regulations affecting labor and working conditions and efforts to serve as a conduit for communicating workers' complaints to the management of enterprises or municipal labor bureaus. The ACFTU has shown itself concerned with protecting workers' living standards in areas such as unemployment insurance.

Before wage reform, workers' salaries were set according to a uniform national scale based on seniority and skills. Following wage reforms, a total wage bill for each collectively and state-owned enterprise is set by the Ministry of Labor accord-

ing to four criteria: 1) As a percentage of profits, 2) as a contract amount with the local labor bureau, 3) for money losing enterprises, according to a state-set amount, and 4) as an enterprise-set amount subject to ministry review. Individual enterprises determine how to divide the total among the workers, a decision usually made by the enterprise manager in consultation with the enterprise party chief and the union representative. Worker congresses have mandated authority to review plans for wage reform, though these bodies serve primarily as rubber stamp organizations. Wages are generally equal for the same type of work within enterprises. Incentives are provided for increased productivity.

The old permanent employment system is giving way to a more flexible contract-based system. However, the percentage of workers laboring under contract is still low, approximately 40 percent nationwide in state enterprises. Under the Labor Contract System, individual workers may negotiate with management over contract terms. In practice, only the very few workers with highly technical skills are able to negotiate effectively on salary and fringe benefits issues.

Worker congresses, held periodically in most Chinese enterprises, theoretically have the authority to remove incompetent managers and approve major decisions affecting the enterprise, notably wage and bonus distribution systems. However, worker congresses generally take place once a year and serve essentially to rubberstamp agreements worked out among factory managers, party secretaries, and union representatives. In smaller enterprises it is not unusual to find these three posts held by the same person.

A dispute settlement procedure has been in effect since 1987. The procedure provides for two levels of arbitration committees and a final appeal to the courts. Of the 50,000 cases brought for arbitration in 1992, most were resolved at the first or second level, with less than 5 percent reaching the courts. According to Labor Ministry officials, most arbitration cases are filed by contract workers or their employers, an indication, they assert, that the new contract system provides a clearer set of ground rules which both sides can attempt to enforce.

Laws governing working conditions in China's special economic zones (SEZ's) are not significantly different from those in the rest of the country. However, wages in the SEZ's are significantly higher than in other Chinese enterprises. Unskilled laborers can expect much higher pay in southern China generally, but highly skilled workers are the main beneficiaries of the wage discrepancy.

The 1982 Trade Union Law prohibits antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Unionized foreign businesses generally report pragmatic relations with ACFTU representatives. The ACFTU's stated goal is to establish unions in all foreign-funded enterprises within 2 to 3 years.

c. Prohibition of Forced or Compulsory Labor.—Chinese penal policy emphasizes "reform first, production second," but compulsory labor is an integral part of the system both to rehabilitate prisoners and to help support the facilities. Almost all persons the courts sentence to prison, including political prisoners, are required to work, usually for little or no compensation. China also maintains a network of "re-education through labor" camps (see Section 1.e.), the inmates of which generally must work. Reports from human rights organizations and released prisoners demonstrate that at least some persons in pretrial detention are also required to work. The number of workers in prison for nonviolent labor-related activity is not known. (See Section 1.e.) According to prison authorities, prisoners in labor reform institutions work a full 8-hour day and must also engage in both ideological and basic literacy and skills training. Justice officials have stated that in labor reeducation facilities there is a much heavier emphasis on education than on labor. Most reports conclude that work conditions in the penal system's light manufacturing factories are similar to those in ordinary factories, but conditions on farms and in mines can be harsh. As is the case nationwide, safety is often neglected, putting prisoners at risk, but there were no available figures for casualties in prison industry.

Some penal facilities contract with regular industries for prisoners to perform light manufacturing and assembly work. In 1992 Chinese newspapers reported that Chinese prison labor is used for many types of production (examples in parentheses), including heavy industry (coal, steel), light manufacturing (clothing, shoes, small machine tools), and agriculture (grain, tea, sugar cane). In 1991 the Chinese Government published a reiteration of its regulations barring the export of prison-made goods. On August 7, 1992, the U.S. and Chinese Governments signed a memorandum of understanding (MOU) prohibiting trade in prison labor products. The U.S. Customs Service has issued detention orders barring a number of products reportedly made by prisoners from entering the United States and detained several shipments of such goods in 1993. Under the MOU the Chinese have provided requested investigation reports on 31 suspected facilities. Five facilities investigated

by the Chinese were found to have had prisoners engaged in some aspect of export production at some point in time, though not necessarily to the United States; of these, two with export activities at the time of the investigation reportedly received unspecified administrative sanctions. U.S. officials have conducted on-site visits of three suspected facilities and another facility visit has already been scheduled. The detention orders on two of the visited facilities were lifted, one in December 1993 and one in January 1994. The other case is still under study.

d. *Minimum Age for Employment of Children.*—Regulations promulgated in 1987 prohibit the employment of school age minors who have not completed the compulsory 9 years of education. Press reports indicate that dropout rates for lower secondary schools (ages 12–15 years) in several southern provinces exceed 9 percent (the national average is 2.2 percent). This suggests the booming economy in that region is enticing more children to leave their studies to find jobs. In poorer, isolated areas, child labor in agriculture is widespread. Most independent observers agree with Chinese officials that China's urban child labor problem is relatively minor. No specific Chinese industry is identifiable as a significant violator of child labor regulations. In 1991 the State Council issued regulations imposing severe fines, withdrawal of business licenses, or jail for employers who hire laborers under 16 years of age.

e. *Acceptable Conditions of Work.*—China does not have a labor code. A draft has been circulating since mid-1992. Due to the complexity of incorporating myriad existing regulations into the proposed unified code, it remains unclear if it will be made law. Labor regulations continue to be promulgated at both the national and provincial level, but they are not uniformly enforced.

There is no minimum wage in China. However, the Ministry of Labor is currently drafting minimum wage regulations. Anticipating the issuance of the regulations, some local governments, particularly those in more highly developed east coast areas, have already drafted regulations on minimum wages. On the higher end, in Zhuhai, Guangdong Province, the minimum monthly wage has been set at \$62 (350 yuan at the official exchange rate). Generally the levels have been set to provide for a decent standard of living for a worker and his family. Minimum wage figures do not include free or heavily subsidized benefits which employing work units commonly provide in kind, such as housing, medical care, and education. Factories or ministries are required to pay 70 percent of final monthly wages to workers laid off because of a factory closing or reduction in force, but there have been numerous reports of violations of this policy.

The national standard workweek, excluding overtime, is 48 hours with a mandatory 24-hour rest period. In the past, 3 to 12 working hours per week were generally spent in political study or "education" on current social issues. In recent years, many factories have abandoned political study either for regular work or for an additional half day off each week. Starting in 1991, factories (including joint ventures) were allowed to adopt shorter workweeks. Despite laws mandating a standard 8-hour workday throughout the country, there continue to be reports of workers in the SEZs regularly working 12 hours daily.

Occupational health and safety are constant themes of posters and campaigns. Every work unit must designate a health and safety officer and the International Labor Organization has established a training program for these officials. Moreover, while the right to strike is not provided for in the 1982 Constitution, the Trade Union Law explicitly recognizes the right of unions to "suggest that staff and workers withdraw from sites of danger" and to participate in accident investigations. Labor officials reported that such withdrawals did occur sometimes in 1993. Nonetheless, pressures for increased output, lack of financial resources to maintain equipment, lack of concern by management, and a traditionally poor understanding of safety issues by workers have contributed to a continuing high rate of accidents. State prosecutors deal annually with thousands of negligence and accident cases. In November 1992, the Standing Committee of the National People's Congress passed a law on mining safety, which established standards and provided for enforcement, including fines and imprisonment. Labor officials were unable to provide statistics verifying the effects of the law, but they claimed that despite substantially increased across-the-board production in mining output, mine accidents were down in the first half of 1993.

More than 15,000 workers died in industrial accidents in 1992, 63 percent of them miners. Because of the lack of legislation to bring together diverse and often unpublished regulations in other health and safety areas, compliance with existing regulations is haphazard. Official Chinese press reports in July announced the issuance of a State Council circular stressing safety in production following "sharp increases in job accidents in the first half of this year." Officials blame the increases on lax enforcement of safety regulations in the rapidly expanding rural, foreign-funded, and private industry sectors.

As fires and explosions in southern China amply demonstrated in 1993, enforcement of China's safety regulations, particularly in the booming light industry sector, continued to be lax. In late November, 81 workers died in a blaze in a Shenzhen toy factory because safety precautions were not taken and warnings from the local labor ministry office had allegedly gone unheeded.

TAIWAN

In 1993 Taiwan continued its rapid progress toward a pluralistic system truly representing the island's population. Open political debate and a freewheeling print media contributed to a vigorous democratic environment. The new Legislative Yuan (LY) took an increasingly active role. In November local mayor and county magistrate elections were freely, fairly, and energetically contested, marking a new stage in competitive party politics in Taiwan. The disproportionate role of Chinese mainlanders who had dominated both politics and government in Taiwan since 1945 through the Nationalist Party (KMT), already sharply reduced by the National Assembly (NA) (1991) and LY (1992) elections, was further curtailed at the KMT's 14th Congress in August. Factions led by Taiwan-born Chairman (and regime President) Lee Teng-Hui won 80 percent of the seats on the Central and Central Standing Committees. Senior military officers were discouraged from seeking high KMT positions, thereby enhancing the political neutrality of the military. Following the lifting of martial law in 1987 and the disbanding of the Taiwan Garrison General Headquarters in 1992, most law enforcement functions are handled by civilian police agencies.

Taiwan's basically free market economy has major sectors dominated by state- and party-run enterprises—including finance, transportation, utilities, telecommunications, shipbuilding, steel, and petrochemicals. Because of opposition and media pressure, the KMT has promised to make public information about its enterprises. Taiwan's economy continued to shift toward the service sector and capital- and technology-intensive industries. Shortages of unskilled labor and high labor costs resulted in the exodus of many labor-intensive manufacturers as well as the continued importation of foreign workers.

Political rights made further advances with the ending of restrictions on dissidents returning to Taiwan. A new cable television law and steps to open new radio and television frequencies have begun to end the long-term monopoly of broadcast media by the authorities and the KMT. New legislation brought significantly improved protection for the rights of juveniles and children. Administrative changes raised the level of offices dealing with aboriginal affairs to give more attention to the needs of this group.

Despite a much improved human rights environment, human rights abuses continued. There continued to be credible reports of police and military abuse of detainees. A pattern of restrictions on workers' rights of association and to strike continues to be a significant problem. Some "antihoodlum" regulations, including a "secret witness" system, violate internationally accepted standards of due process. Child prostitution, including the sale of aboriginal children, and discrimination and violence against women remained significant problems.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom From:

a. *Political and Other Extrajudicial Killing.*—Five police officers in Taichung City were indicted for beating to death a rape suspect in August. The death of World United Formosans for Independence Secretary-General Wang Kang-Lu in an October Taipei car crash was branded a "political assassination" by his family and supporters although though no evidence was found by year's end proving that the death was politically motivated.

There were no other reports or claims of political or other extrajudicial killings directed by the authorities in 1993. However, there was the shooting of a county council member and his secretary in Yunlin county, reportedly by gangsters, and of a Chiayi county opposition leader investigating the collection of illegal fees from fishermen by his fishermen's association may have had political motives. Also, longtime oppositionist Peng Ming-Min alleged in August that a security official had suggested murdering him to curb the "rising voice of Taiwan independence." Since Peng did not file charges, the authorities did not investigate the allegation.

Although corporal punishment is forbidden under military law, physical abuse of military personnel continues. At a public hearing in July on human rights abuses in the military, the deputy military police commander admitted there were problems

AGENCY FOR INTERNATIONAL DEVELOPMENT

WASHINGTON D C 20523

AID
EXECUTIVE SECRETARIATASSISTANT
ADMINISTRATOR

1993 JUN 17 A 8 36

JUN 17 1993

ACTION MEMORANDUM FOR THE ADMINISTRATOR

FROM: A-AA/R&D, Ann Van Dusen *Ann Van Dusen*

SUBJECT: FY 1993 Funding for UNFPA

Problem: Your approval is requested to provide FY 1993 funding to the United Nations Population Fund (UNFPA).

Summary: Assistance will be provided to UNFPA only on the condition that it hold U.S. funds in a separate subaccount of the main UNFPA account, so UNFPA could demonstrate that none of the U.S. contribution is used for China.

In order for UNFPA to be eligible for U.S. funds, it is necessary to find that it does not violate the Kemp-Kasten amendment. The documentation to support your making this finding is attached.

Background: The Kemp-Kasten amendment prohibits assistance to an organization which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization. The authority to make this finding was delegated to the A.I.D. Administrator who determined in 1985 that the Kemp-Kasten restriction was applicable to UNFPA because of its assistance to China.

Although UNFPA did not finance coercive abortion or involuntary sterilization anywhere, the U.S. discontinued assistance to UNFPA in 1985 because the Administrator interpreted the statute broadly. Shortly after his inauguration, President Clinton announced his intention to review this determination. A.I.D. and the State Department have now done so and have concluded that the Kemp-Kasten prohibition does not apply to UNFPA.

Kemp-Kasten Finding: The attached memorandum finds that UNFPA's assistance to China does not violate the Kemp-Kasten amendment and UNFPA is, therefore, eligible for assistance from A.I.D. The accompanying legal analysis provides a different interpretation of this amendment and has been cleared by the Legal Advisor's Office. It also has been reviewed by the Office of Legal Counsel at the Department of Justice which agrees with the conclusions in the GC memorandum.

FY 1993 Funding: Since the FY 1993 budget was finalized last summer, a level of \$20 million for UNFPA in FY 1993 has been included in the Office of Population's budget. \$10 million was included in the FY 1993 Congressional Presentation. However the \$20 million level is widely known throughout the population community as evidenced by UNFPA using it in their own planning documents. A technical notification will be required to increase the level of funding above \$10 million. -

The options for FY 1993 funding for UNFPA are the following:

1. Funding at \$10 million. This was the level included in the FY 1993 Congressional Presentation. Therefore, no additional technical notification is required. However, funding at this level would be perceived by supporters as too low.
2. Funding at \$20 million, through a single transfer via State/IO to UNFPA. This would require a technical notification to Congress prior to the transfer funds through State. The technical notification could be subject to a hold.
3. Funding at \$20 million, provided in two tranches. The first tranche of \$10 million could be made quickly. Then a technical notification would be sent to the Hill for the remaining \$10 million. The second tranche of \$10 million would be provided later in the summer.

For any of these options, we can go forward with the planned announcement, indicating the provision of FY 1993 funding, pending the expiration of any necessary notification to Congress.


Provisions on Assistance: Prior to 1985, A.I.D. made funds available to IO which then transferred them to UNFPA. This mechanism would be continued. However, in order to distance the U.S. from the China population program, as well as address bipartisan Congressional concerns, the transfer of funds to UNFPA would be preceded by an exchange of letters between the U.S. Ambassador to the U.N. and the Executive Director of UNFPA. These letters will stipulate that the U.S. contribution must be segregated so that it cannot be used for China's population program and UNFPA's agreement to this limitation. Additionally, the letter from the U.S. Ambassador should note the statements made by UNFPA, the U.S. Government and other donors at the June 1993 UNDP Governing Council meeting, voicing concern about the coercive activities in China. The letter should indicate that the U.S. Government will continue to call upon UNFPA to determine the extent of progress they have made to improve voluntarism in the China population program, noting that the U.S. Government will continue to closely review UNFPA's China program and that

the U.S. Government may call upon UNFPA to modify or consider discontinuing its program based on these reviews.

Announcement of the decision: We recommend that you sign this memorandum and the accompanying package as soon as possible. Given this late juncture in the fiscal year, we need to proceed quickly on any reprogramming of funds. If any reprogramming is necessary, it must begin before the end of June in order to be accommodated within programmatic and procurement deadlines.

Recommendations: That you:

1. Approve the attached determination finding that Kemp-Kasten does not apply to UNFPA;

APPROVED: 

DISAPPROVED: _____

DATE: JUL 14 1993

2. Approve FY 1993 funding at:

- a. \$10 million;

APPROVED: _____

DISAPPROVED: _____

DATE: JUL 14 1993

- b. \$20 million in a single tranche requiring a technical notification prior to any transfer of funds; or

APPROVED: 

DISAPPROVED: _____

DATE: JUL 14 1993

- c. \$20 million in two tranches, requiring a notification of the second tranche of \$10 million.

APPROVED: _____

AGENCY FOR INTERNATIONAL DEVELOPMENT
EXECUTIVE SECRETARIAT
WASHINGTON DC 20523

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JUN 17 1993

ASSISTANT
ADMINISTRATOR

ACTION MEMORANDUM FOR THE ADMINISTRATOR

FROM: A-AA/R&D, Roxann A. Van Dusen *Roxann Van Dusen*
SUBJECT: Funding for the United Nations Population Fund (UNFPA)

Problem: In order to provide assistance to UNFPA, you are requested to find that it does not support or participate in the management of a program of coercive abortion or involuntary sterilization within the meaning of the Kemp-Kasten amendment.

Discussion: The Kemp-Kasten amendment in the foreign operations appropriations act prohibits funding for an organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization. In 1985, when the limitation was first enacted, authority to make this determination was delegated to the Administrator of A.I.D. who then concluded that this restriction applied to UNFPA as a result of its activity in the People's Republic of China. The Administration continues to have this authority pursuant to section 1-102(a)(7) and 1-902(c) Executive Order 12163.

China has had a one-child-per-family policy since 1979. The Government sets targets for authorized births that are apportioned down to the local level. These targets often are treated as quotas by overzealous family planning workers and other officials whose performance is reinforced by a system of rewards for success and punishment for failure. Special benefits are provided to couples who comply with China's population policies, and economic and other penalties are imposed on those who do not. The Administrator concluded that this system set in place a program for population control which has resulted in a wide variety of abuses, including coerced abortion and involuntary sterilization.

UNFPA's activity in China included: support for development of the capability to conduct a modern census, computer hardware and management information systems to obtain and analyze demographic information effectively, the development of institutions to make China self-sufficient in training demographers and other family planning workers, and certain kinds of basic and clinical research.

The terms Congress used in the Kemp-Kasten amendment are not clear, and it does not contain any definitions. Based

substantially on Congressman Kemp's comments about this restriction, the Administrator determined that UNFPA's technical assistance and training provided China the ability to set targets, monitor compliance with them and enforce the one-child policy and, therefore, that UNFPA participated in the management of China's program of coercive abortion and involuntary sterilization in violation of the Kemp-Kasten amendment.

The federal courts sustained the Administrator's determination. In Population Institute v. McPherson, 797 F.2d 1062 (D.C. Cir. 1986), the court of appeals deferred to the Administrator's interpretation of an ambiguous statutory provision and concluded that his "decision was in fact reasonably grounded in a reasonable view of the [Kemp-Kasten] amendment." Id. at 1074.

Nevertheless, this interpretation has raised significant policy issues: UNFPA does not directly finance or support abortion or coercion in China or anywhere else; virtually every country needs the kind of technical assistance and training that UNFPA provides China in order to have an effective population program, and UNFPA does provide the same kind of assistance to other countries; the 1985 interpretation has placed a strain on the relationship between the United States and the UN that is not specifically required by the words of the statute and would be better addressed through diplomatic means; UNFPA has activities in approximately 130 other countries besides China, and the United States position since 1985 has limited the amount of funds UNFPA has available to finance family planning programs throughout the world, including countries where there are no bilateral donors; many believe UNFPA's presence in China has provided it an opportunity to moderate the severity of the China program.

Many people, including probably a majority of the Members of Congress, have disagreed with A.I.D.'s 1985 application of the Kemp-Kasten amendment to UNFPA. To maintain his position regarding UNFPA, it was necessary for President Bush to veto the 1990 foreign operations appropriations act because Congress earmarked funding for UNFPA. Critics have asserted that there should be a direct link between an organization and coercive abortion or involuntary sterilization before the Kemp-Kasten restriction is applied to the organization. They also have pointed out that various, relatively small activities receiving approximately \$10 million from UNFPA could not influence China's huge, complex population program which has an estimated annual budget of \$1 billion.

Attached at Tab A is the General Counsel's opinion that A.I.D. is not bound by the Administrator's 1985 interpretation of the Kemp-Kasten amendment and its application to UNFPA. Since the provision is ambiguous, a reinterpretation would be entitled to

deference as long as it is a reasonable reading of the words Congress chose to express this limitation and does not conflict with its legislative history. Under the circumstances, it would not be inappropriate for a new administration to review whether a less sweeping interpretation of the words of the statute is reasonable and might advance the interests of the United States more effectively.

Since the penalty in the Kemp-Kasten amendment is so severe, the entire cut-off of United States funds to an organization, it would be appropriate to subject an organization to this sanction only when it knowingly and intentionally engages in the activity proscribed by the statute. If Congress intended a less stringent standard, it simply and clearly could have prohibited funding for an organization which provides assistance to a country that has a program of coercive abortion or involuntary sterilization. The prohibition is triggered when an organization supports or participates in the management of a program of coercive abortion or involuntary sterilization. Another reasonable reading of this restriction would require funds to be withheld from an organization that provides assistance to China only if it can be demonstrated that the organization knowingly and intentionally provides direct support for, or assists in the management of, people or agencies who are clearly engaged in coercive abortion or involuntary sterilization.

Tab B is an excerpt regarding China from the 1992 State Department Human Rights Report which describes briefly the coercion that continues in the population program there. This report indicates that birth targets and population attitudes are enforced at the level of work units and neighborhood watch committees, rather than by agencies which have received assistance from UNFPA.

A review of population assistance UNFPA has provided to China over the past 13 years, including under its current 5-year agreement, demonstrates that UNFPA does not provide direct support for, or assist in the management of, people or agencies who are clearly engaged in coercive abortion or involuntary sterilization. See Tab C.

Recommendation: That you find that UNFPA does not support or participate in the management of a program of coercive abortion or involuntary sterilization within the meaning of the Kemp-Kasten amendment.

Approved: jsa

Disapproved: _____

Date: _____

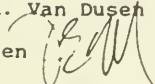
Attachments: a/s

Agency for International Development
Washington, D.C. 20523

Office of the
General Counsel

March 25, 1993

MEMORANDUM

TO: A-AA/R&D, Roxann A. Van Dusen
FROM: A-GC, John E. Mullen 
SUBJECT: Funding for the United Nations Population Fund (UNFPA)

A. Introduction and Summary. The Kemp-Kasten amendment enacted annually in the foreign operations appropriations act prohibits funding for an "organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization." In 1985, when this limitation was first enacted, authority to make the determination on behalf of the President was delegated to the A.I.D. Administrator who then concluded that this restriction applied to UNFPA as a result of its activity in the People's Republic of China.

The Administrator's decision was based on his judgment that UNFPA's assistance helped the Chinese manage their entire population program more effectively, including those features which resulted in coercive abortion and involuntary sterilization. Although the Administrator demonstrated a sufficient nexus with coercion, abortion and sterilization to have his determination sustained in the federal courts, UNFPA's contact with these abuses was indirect and remote, at most, and this determination has been very controversial. UNFPA provides the same kinds of demographic assistance and training in many other countries, and virtually each year, efforts have been made in Congress again to earmark funds for UNFPA. President Bush vetoed the 1990 foreign operations appropriations act because it contained such an earmark.

The court of appeals deferred to the Administrator's interpretation of the Kemp-Kasten amendment in 1985 because it was a reasonable reading of an ambiguous provision and did not conflict with the prohibition's legislative history. A new administration has the right to interpret this restriction itself for the purpose of ensuring that the administration's policies are achieved as it exercises the judgment required under the amendment. A different interpretation likewise is entitled to deference as long as it too is reasonable and does not conflict with the legislative history of the provision.

Since the plain meaning of Kemp-Kasten focuses on an organization's relationship with a program of coercive abortion and involuntary sterilization, it would be just as reasonable to conclude that the restriction applies to an organization only when there is a direct link between what the organization does in China and coerced abortion or sterilization. UNFPA does not, however, directly finance abortion or coercion in China or anywhere else, and a determination in 1993 by the President or Administrator that UNFPA does not support or participate in the management of a program of coercive abortion or involuntary sterilization would be a reasonable interpretation and application of the Kemp-Kasten amendment.

B. The 1985 Determination. China has had a one-child-per-family policy since 1979. The government sets targets for authorized births that are apportioned down to the local level. These targets often are treated as quotas by overzealous family planning workers and other officials whose performance is reinforced by a system of rewards for success and punishment for failure. Special benefits are provided to couples who comply with the policy, and economic and other penalties are imposed on those who do not. The Administrator concluded that this system set in place a program for population control which resulted in a wide variety of abuses, including coerced abortion and involuntary sterilization.

UNFPA does not finance abortion or coercion in China or anywhere else. Its activity there was and is the same as UNFPA provides to many countries and is a fundamental element of any effective population program. Assistance has included: support for development of the capability to conduct a modern census, computer hardware and management information systems to obtain and analyze demographic information effectively, the development of institutions to make China self-sufficient in training demographers and other family planning workers, and certain kinds of basic and clinical research. The Administrator determined that this technical assistance and training provided China the ability to set targets, monitor compliance with them and enforce the one-child policy and that, therefore, UNFPA participated in the management of China's program of coercive abortion and involuntary sterilization in violation of the Kemp-Kasten amendment.

C. The Statute is Ambiguous and Its Legislative History is not Definitive. The terms Congress chose to use in the Kemp-Kasten amendment are not clear, and this provision does not contain any definitions. For example:

- What should be considered a "program of coercive abortion or involuntary sterilization"? Is it necessary for a government to have an official, sanctioned and coordinated plan or system for coercive abortion and involuntary

sterilization; or is the restriction applicable when the one-child policy and the way it is implemented by overzealous officials results in coerced abortions and involuntary sterilizations despite official government criticism of these abuses?

- What does participate in the management of a program of coercive abortion or sterilization mean? Does it require actual direction of and responsibility for the people or agencies engaged in coerced abortion and involuntary sterilization; or does it mean providing technical advice directly to these people and agencies; or does it mean providing technical assistance that can be used by Chinese officials to manage the overall China population program more effectively, and thereby indirectly any coercive abortion and involuntary sterilization that might be in the program with or without government approval?
- Does the word "support" refer to a program of coercive abortion or to participation in the management of such a program?

As is often the case, the legislative history also is not clear. The amendment was proposed by Congressman Kemp, then a member of the House Appropriations Committee, as a substitute for the President Reagan's request to reduce the 1985 earmark for UNFPA in an amount equal to UNFPA's expenditures in China. The Committee Report simply referred to the provision as a new prohibition. As part of his Additional Remarks published separately in the Committee Report, however, Congressman Kemp defined "participate in the management of a program", basically using a description of the kinds of technical assistance and training UNFPA was providing in China and stated his view that the new provision would bar funding for UNFPA. H. Rept. 99-142, 99th Cong., 1st sess., at 86 and 232, May 22, 1985. The Senate Appropriations Committee added the words "as determined by the President of the United States", with the following explanation:

The House has included language which has the effect of prohibiting any further U.S. assistance in fiscal year 1985 to the United Nations Fund for Population Activities [UNFPA]. The Committee has amended this language to require that the President of the United States, prior to implementation of the prohibition in the House language, determine that, in fact, the organization does support or participate in the management of a program of coercive abortion.

S. Rept. 99-82, 99th Cong., 1st sess., 107, June 13, 1985.

Senator Inouye, then chairman of the Committee, was confident the President would not make the determination because the Senator believed China did not have a program of coercive abortion, although there were some instances of forced abortions which were not condoned by the government, and he also thought UNFPA's assistance there could not support or participate in the management of a program of coercive abortion. Cong. Rec. S8526, June 20, 1985.

D. 1895 Litigation. In a lawsuit in the U.S. District Court for the District of Columbia, two of UNFPA's subgrantees challenged the Administrator's determination, asserting that A.I.D. did not correctly interpret or apply the prohibition. Whether or not China had a program of coercive abortion or involuntary sterilization, plaintiffs argued that UNFPA did not finance or provide assistance for coercion, abortion or sterilization and UNFPA's technical assistance and training did not amount to participation in the management of the overall China population program, much less management of any putative program of coercive abortion or sterilization, within the plain meaning of the term.

The Court of Appeals for the District of Columbia reviewed the Administrator's determination twice, once on a motion for an injunction pending appeal, and the second after a full briefing of the issues. Each time the court stated that "[b]y reviewing the Administrator's determination, we simply assure that final pronouncement, which is indisputably his to make, will be in accord with law and accepted principles of statutory construction." Population Institute v. McPherson, 797 F.2d 1062, 1070 (D.C. Cir. 1986). The court described the standard used to review the determination as follows:

The Supreme Court has made clear that a court "must give effect to the unambiguously expressed intent of Congress." Chevron U.S.A., Inc v. Natural Resources Defense Council, Inc., 467 U.S. 837, 843, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984). If, however, Congress' purpose can not be so clearly divined and "the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute." Id. at 843, 104 S.Ct. at 2782. If the agency charged with administering a statute has reasonably interpreted the statute, its interpretation must be upheld. In reviewing the Administrator's determination here we intend to do no more than assure that he has adopted a reasonable reading of the amendment.

Id. at 1069. In addition to the principles expressed in Chevron, the court of appeals believed there is "special deference that

should be accorded the executive in those activities that impinge on foreign affairs." Id. at 1070.

Although the court believed that "Congress could have provided him [the Administrator] with clearer and less ambiguous instructions", the court criticized the lack of clarity in the Administrator's determination and was even more critical when the Administrator's stated reasons appeared to place too much weight on Congressman Kemp's definition of participation in the management of a program:

In defining this term, the Administrator, as in his first determination, relied almost exclusively on the views of Representative Kemp. See November 25th Statement at 10 ("Although [Representative Kemp's] definition was not "written in the statute", it was the clearest explanation of an otherwise ambiguous term."). The problem with relying on this "clear explanation" of an "ambiguous term" is that Representative Kemp was unable to persuade his colleagues in the House Committee to adopt it. If the House Committee had desired clarity it could have included in its report the explanation Representative Kemp was forced to put in his separate statement. That Representative Kemp's explanation was clear in fact cuts against employing it to define the vague language in the statute- we know for certain that neither the House, nor the Senate, nor the conference committee saw fit to include this "clear explanation" in their reports or make it part of the amendment itself. Thus, we can be fairly sure that a majority of Congressman Kemp's colleagues, however unsure they may have been as to what the amendment did mean, did not espouse his precise view of its meaning. In continuing to rely on Congressman Kemp's pronouncements, the Administrator may well have slighted our earlier admonition that the "key to legislative history is that while many elements represent pieces in the puzzle, no one piece-no matter how clear and unequivocal-is alone dispositive." See Order at 1080.

Id. at 1074. Emphasis added.

The Administrator's determination described his view that the demographic technical assistance and training UNFPA provided to China helped the Chinese manage their program of coercive abortion and involuntary sterilization, as well as China's overall population program. The court, referring to Chevron, deferred to the Administrator's view of Kemp-Kasten's meaning as thoroughly reasonable.

E. Reinterpreting and Applying the Kemp-Kasten Amendment. The U.S. has not made a contribution to UNFPA since 1985. After reviewing the China population program and UNFPA's activity there annually, A.I.D. has concluded that there have not been significant changes in either to warrant a resumption of U.S. support for UNFPA. The issue becomes more controversial each year. Many people, including probably a majority of the Members of Congress, have disagreed with A.I.D.'s application of the Kemp-Kasten amendment to UNFPA. To maintain his position regarding UNFPA, it was necessary for President Bush to veto the 1990 foreign operations appropriations act because Congress earmarked funding for UNFPA. Critics have believed that there should be a direct link between an organization and coercive abortion or involuntary sterilization before the Kemp-Kasten restriction is applied to the organization. They also have asserted that various, relatively small activities receiving in the aggregate approximately \$10 million from UNFPA could not influence China's huge, complex population program which has an estimated annual budget of \$1 billion.

A department or agency of the government is not foreclosed from reinterpreting an ambiguous statutory restriction, changing a longstanding position with regard to it, and having its revised interpretation entitled to deference in the federal courts. A recent example is the changes in the Title X regulations applicable to domestic family planning programs. The Department of Health and Human Services changed its interpretation of section 1008 of the Public Health Service Act, and this controversial action was sustained by the Supreme Court in Rust v. Sullivan, 114 L.Ed.2d 233 (1991). The Court had the following comments about the deference to which an agency is entitled when it interprets legislation affecting programs for which the agency is responsible:

We need not dwell on the plain language of the statute because we agree with every court to have addressed the issue that the language is ambiguous. The language of § 1008- that "[n]one of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning"- does not speak directly to the issues of counseling, referral, advocacy or program integrity. If a statute is "silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute." Chevron, 467 US, at 842-843, 81 L.Ed.2d 694, 104 S.Ct. 2778.

The Secretary's construction of Title X may not be disturbed as an abuse of discretion if it reflects a plausible construction of the plain language of the statute and does not otherwise conflict with Congress'

expressed intent. Ibid. In determining whether a construction is permissible, "[t]he court need not conclude that the agency construction was the only one it could permissibly have adopted ... or even the reading the court would have reached if the question initially had arisen in a judicial proceeding." Id at 843, n 11

When we find, as we do here, that the legislative history is ambiguous and unenlightening ... we customarily defer to the expertise of the agency. Petitioners argue, however, that the regulations are entitled to little or no deference because they "reverse a longstanding agency policy that permitted nondirective counselling and referral for abortion, ... and thus represent a sharp break from the Secretary's prior construction of the statute

This court has rejected the argument that an agency's interpretation "is not entitled to deference because it represents a sharp break with prior interpretations" of the statute in question. In Chevron, we held that a revised interpretation deserves deference because "[a]n initial agency interpretation is not instantly carved in stone" and "the agency to engage in informed rule making must consider varying interpretations and the wisdom of its policy on a continuing basis." Id., at 863-864 An agency is not required to "establish rules of conduct that will last forever...."

Id. at 249-251. Emphasis added.

In Chevron, EPA reviewed the definition of the term "stationary source" in the Clean Air Act as part of a government-wide reexamination of regulatory burden and complexity when a new administration took office in 1981. The court commented on the role of the judiciary in considering arguments regarding the policy that served as a basis for an interpretation of the statute:

In these cases the Administrator's interpretation represents a reasonable accommodation of manifestly competing interests and is entitled to deference: the regulatory scheme is technical and complex, the agency considered the matter in a detailed and reasoned fashion, and the decision involves reconciling policies. Congress intended to accommodate both interests, but did not do so itself on the level of specificity presented by these cases. Perhaps that body consciously desired the Administrator to strike

the balance at this level, thinking that those with great expertise and charged with responsibility for administering the provision would be in a better position to do so; perhaps it simply did not consider the question at this level; and perhaps Congress was unable to forge a coalition on either side of the question, and those on either side decided to take their chances with the scheme devised by the agency. For judicial purposes, it matters not which of these things occurred.

Judges are not experts in the field, and are not part of either political branch of the Government. Courts must, in some cases, reconcile political interests, but not on the basis of the judges personal policy preferences. In contrast, an agency to which Congress has delegated policy making responsibilities may, within the limits of that delegation, properly rely upon the incumbent administration's views of wise policy to inform its judgments. While agencies are not directly accountable to the people, the Chief Executive is, and it is entirely appropriate for this political branch of the Government to make such policy choices-resolving the competing interests which Congress itself either inadvertently did not resolve, or intentionally left to be resolved by the agency charged with the statute in light of everyday realities.

When a challenge to an agency construction of a statutory provision, fairly conceptualized, really centers on the wisdom of the agency's policy, rather than whether it is a reasonable choice within a gap left open by Congress, the challenge must fail. In such a case, federal judges - who have no constituency - have a duty to respect legitimate policy choices made by those who do.

Chevron, 81 L.Ed.2d, at 716-717. Emphasis added.

The clearest expression of Congressional intent in the legislative history of the Kemp-Kasten amendment is that Congress wanted the judgement of the Executive Branch, specifically identifying the President, in deciding to which organizations this restriction should be applied, rather than its rigid application to UNFPA. The Senate revised the House version of this provision to refer specifically to the President, and the Senate and Conference Committee reports emphasize the importance of the President's views to Congress in making the decision required under the amendment. S.Rept. No. 99-82, 99th Cong., 1st sess., at 107-108, June 13, 1985; comments by Senator Inouye at Cong. Rec. S8526, June 20, 1985; and conference report at Cong. Rec. H6689, July 29, 1985.

The principles of deference are not limited to complex regulatory schemes as in Chevron or formal rule making as in Rust. Japan Whaling Assn v. American Cetacean Society, 478 U.S. 221, 92 L.Ed.2d 166 (1986) involved the exercise of a statutory duty entrusted to the Secretary of Commerce that he must certify to the President a country whose nationals conduct fishing operations in a manner or under circumstances which diminish the effectiveness of an international fishery conservation program. On each of five prior occasions, the Secretary certified a country if it failed to accept the limits of the International Whaling Commission (IWC); this time, the Secretary exchanged letters with the Government of Japan (GOJ) under which Japanese fishermen would exceed the IWC limit on certain whales for a period of time, without certification, in exchange for a firm undertaking by the GOJ to cease all whaling by a specified date. The Supreme Court pointed out that the statute did not define the words "diminish the effectiveness of" or "specify the factors that the Secretary should consider in making the judgment entrusted to him alone," id. at 180, and repeated the familiar standards of Chevron:

If Congress has directly spoken to the precise issue in question, if the intent of Congress is clear, that is the end of the matter.... But as the courts below and respondents concede, the statutory language itself contains no direction to the Secretary automatically and regardless of the circumstances to certify a nation that fails to conform to the IWC whaling Schedule. The Pelly and Packwood Amendments might reasonably be construed in this manner, but the Secretary's construction that there are circumstances in which certification may be withheld, despite departures from the Schedules and without violating his duty, is also a reasonable construction of the language used in both statutes. We do not understand the Secretary to be urging that he has carte blanche discretion to ignore and do nothing about whaling in excess of IWC Schedules. He does not argue, for example, that he could refuse to certify for any reason not connected with the aims and conservation goals of the Convention, or refuse to certify deliberate flouting of schedules by members who have failed to object to a particular schedule. But insofar as the plain language of the Amendments is concerned, the Secretary is not forbidden to refuse to certify for reasons given in these cases. Furthermore, if a statute is silent or ambiguous with respect to the question at issue, our longstanding practice is to defer to the "executive department's construction of a statutory scheme it is entrusted to administer,"... [citing Chevron], unless the legislative history of the enactment shows with

sufficient clarity that the agency construction is contrary to the will of Congress.

Id. at 180-181.

The Supreme Court clearly believes that deference continues to be appropriate when an agency changes a longstanding interpretation of an ambiguous statute if the change is justified by reasoned analysis.

F. Focused Interpretation of Kemp-Kasten. Although the Kemp-Kasten provision is reenacted annually in the foreign operations appropriations act, committee reports do not attempt to clarify the meaning of the term "support or participate in the management of a program of coercive abortion or involuntary sterilization." Nevertheless, a major effort is made each year to provide earmarked funding for UNFPA, demonstrating that many in Congress have not approved of the application of Kemp-Kasten to UNFPA. These provisions have not been enacted either because of a Presidential veto, which occurred in 1990, or credible threats of vetoes in subsequent years. Kemp-Kasten remains an ambiguous provision eight years after it was originally adopted, and the legislative history of subsequent enactments of this restriction provide no more guidance or direction than the original iteration in 1985.

There are significant policy reasons for reconsideration of the present interpretation: UNFPA does not directly finance or support abortion or coercion in China or anywhere else; virtually every country needs the kind of technical assistance and training that UNFPA provides to China in order to have an effective population program, and UNFPA does provide the same kind of assistance to other countries; the 1985 interpretation has placed a strain on the relationship between the United States and the UN that is not specifically required by law and might better be addressed through diplomatic means; UNFPA has activities in approximately 130 countries besides China, and the United States position since 1985 has limited the amount of funds UNFPA has available to finance family planning programs throughout the world, including countries where there are not any bilateral donors; many believe that UNFPA's presence in China has provided it an opportunity to moderate the severity of the China population program. Under the circumstances, it is not inappropriate for a new administration to review the Kemp-Kasten amendment to determine whether a less sweeping interpretation of the words of the statute is reasonable and might maintain the policy interests of the United States more effectively.

The Kemp-Kasten amendment provides that funds shall not be made available to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization.

Interpreting this restriction, several points are important. It requires the judgement of the President, or his designee, and judgements regarding obviously ambiguous terms and their application to events in China and UNFPA's activity there may differ. The critical words used by Congress in this provision are "coercive" and "involuntary". The effect of the application of this provision is to shun an organization, like UNFPA, and to exclude it from the United States population assistance program by making it ineligible for any United States funds based on what the organization does with its own or funds from sources other than the U.S. This is a very severe penalty, and it would be reasonable to apply it only to organizations or programs which knowingly and intentionally assist in perpetrating the human rights abuses that are identified in the statute by providing funds or technical management assistance directly to coercive abortion or involuntary sterilization.

In order to apply this restriction to an organization, it would be reasonable to require evidence that the organization knowingly and intentionally provides direct support for, or helps to manage, people or agencies who are clearly engaged in coercive abortion or involuntary sterilization. There is nothing in the words of the statute or its legislative history, taken as a whole, that deprives the President or his designee of the opportunity to exercise judgement in applying this restriction; nothing requires the prohibition to be applied to an organization for which there has been no evidence of direct involvement in abortion or coercion in any way and which provides almost exactly the same kind of general management assistance to many countries throughout the world.

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CHINA

The People's Republic of China (PRC) is a one-party state adhering to Marxist-Leninist principles, in which the Chinese Communist Party (CCP), backed by the military and security forces, monopolizes decisionmaking authority. A closed inner circle of a few senior leaders holds ultimate power. Some of these party leaders hold positions within the Politburo, the Central Military Commission, and other organs. Others hold no formal positions of authority but still wield decisive influence by virtue of their seniority in the Communist movement.

The party maintains control through its ubiquitous apparatus and traditional societal pressure as well as through a nationwide security network which includes the People's Liberation Army; the Ministry of State Security; the Ministry of Public Security; the People's Armed Police; and the state judicial, procuratorial, and penal systems. The security forces have been responsible for human rights abuses, including torture and arbitrary arrest and detention.

More than a decade of impressive economic growth and the spread of market forces have resulted in reducing the Government's control over the economy and many aspects of the everyday life of Chinese citizens. China's annual per capita income, estimated at \$320, remains among the world's lowest, but wide disparities exist, with the living standards in some coastal areas approaching those in more developed countries. The call of Deng Xiaoping, de facto leader of China, for higher growth and greater reliance on market economics gained wide support in 1992, despite some concern over potential overheating of the economy leading to resurgent inflation.

The Government's human rights practices have remained repressive, falling far short of internationally accepted norms. Around the time of the third anniversary of the June 1989 Beijing demonstrations, about 30 activists were detained in Beijing, with more dissidents reportedly held in other areas. The summer trials of former party central committee member Bao Tong and others allegedly linked to the 1989 prodemocracy demonstrations were characterized by predetermined verdicts, effective denial of access to legal counsel, and no access to the trials by independent observers. Boston-based student activist Shen Tong was detained for almost 8 weeks after he attempted to exercise his right to free speech and association during a visit to China. Shen was released after he agreed to depart immediately for the United States. But at least one Chinese citizen detained in connection with Shen's activities, Qi Dafeng, remained in custody at year's end. Meanwhile, hundreds, perhaps thousands, of prisoners of conscience remained imprisoned or detained. The repression of believers who refused to affiliate with government-sponsored religious organizations continued; human rights abuses persisted in Tibet and some other areas heavily populated by ethnic minorities; and cases of torture and mistreatment of those accused of crimes were documented.

On the more positive side, dissidents in Beijing estimated that by mid-1992 some 70 to 80 percent of those detained in that city for involvement in the 1989 democracy demonstrations had been released. China's limited dialog with its foreign critics, while generally characterized by rigid PRC defense of the existing system, continued to expose greater numbers of Chinese to a larger range of views on human rights practices. Modest progress was made in resolving a few individual human rights cases. A number of prominent dissidents have been allowed to leave China; other exit visa cases have been blocked despite a government commitment to allow dissidents to leave. The Governments of the United States and China concluded a memorandum of understanding on preventing trade in prison labor products in August. In the cultural sphere, there were indications that the rigid ideological controls reimposed after June 1989 were beginning to ease.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from

a. *Political and Other Extrajudicial Killing.*—There were no confirmed deaths as a result of political or extrajudicial killing. However, some reports suggested that elderly Catholic bishop Fan Xueyan may have been beaten prior to his death in official custody in Hebei Province in April.

b. *Disappearance.*—Although there were no reported cases of disappearance in 1992, the Government has never provided a comprehensive public accounting of the fate of those detained during and after the suppression of the 1989 demonstrations.

c. *Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.*—Torture and degrading treatment of detained and imprisoned persons persisted. Both official Chinese sources and human rights groups reported many instances of torture. Persons detained pending trial were particularly at risk, reflecting the em-

phasis on obtaining confessions as a basis for convictions. A June article in the official Yunnan Legal News indicated that Chinese police sometimes made suspects kneel on broken glass, jolted them with electric current, or bound them tightly for long periods. Former detainees have credibly reported the use of cattle prods, electrodes, prolonged periods of solitary confinement and incommunicado detention, beatings, shackles, and other forms of abuse against detained women and men. Former prisoners and detainees have stated that ordinary workers and unemployed youths were more likely to suffer torture and mistreatment than well-known prisoners. Refugees have frequently and credibly reported on torture and mistreatment in Tibet's penal institutions.

In April the Procuratorate called for tougher penalties in cases of torture, and officials, including Politburo member Qiao Shi and the Shanghai Public Security Bureau director, took a more open and realistic line on abuses, acknowledging publicly that torture by Chinese police was a serious problem. In September China submitted a supplementary report on torture in belated compliance with its reporting obligations under the U.N. Convention Against Torture.

Procurator General Liu Fuzhi reported in March that 407 alleged cases of torture were investigated in 1991, down 13.5 percent from 1990. These figures cannot be confirmed. The number of incidents of torture and ill-treatment by government officials is almost certainly far greater than the number recorded.

Punishment of abusers has rarely been reported, but severe punishments have been imposed in at least a few cases.

According to the Government's White Paper on "Criminal Reform in China," 24 wardens and guards were sentenced to imprisonment in 1990 and 1991 for administering corporal punishment to detainees.

Conditions in all types of Chinese penal institutions are harsh and frequently degrading, and nutritional and health conditions in China's "reform through labor camps" are grim. There were credible reports that six dissidents held at a Liaoning labor camp, including Liu Gang and Zhang Ming, were denied family visits, beaten, and kept in punishment cells for having attempted hunger strikes. Medical care for prisoners has been another problem area, despite official assurances in the White Paper that prisoners have the right to maintain good health and receive prompt medical treatment if they become ill. In 1992 political prisoners who had difficulties in obtaining timely and adequate medical care included Wang Juntao, Xu Wenli, Ren Wandong and Li Guiren. These reports come from credible unofficial sources but cannot be officially authenticated because the Government has refused to allow impartial observers to visit the prisoners. In a few cases, prisoners have been allowed out on parole for medical treatment.

d. *Arbitrary Arrest, Detention, or Exile.*—China's Criminal Procedure Law prescribes arbitrary arrest or detention; limits the time a person may be held in custody without being charged; and provides for notifying the detainee's family and work unit of the detention within 48 hours. These provisions are subject to several important exceptions and are frequently ignored in practice or circumvented by various informal mechanisms. Public security authorities often detain people for long periods of time under these mechanisms not covered by the Criminal Procedure Law. These include unpublished regulations on "taking in for shelter and investigations" and "supervised residence" as well as other methods not requiring procuratorial approval. These administrative forms of detention were purportedly abolished by a 1980 State Council document but are still used. In numerous cases, the precise legal status or location of detainees is unclear.

Political dissidents are often detained or charged for having committed "crimes of counterrevolution," under Articles 90 through 104 of the Criminal Law. Counterrevolutionary offenses range from treason and espionage to spreading counterrevolutionary propaganda. These articles have also been used to punish persons who organized demonstrations, disrupted traffic, disclosed official information to foreigners, or formed associations outside state control. Detention and trial of dissidents on other charges is possible. In January Shanghai democracy advocate Pan Weiming was sentenced to 4 years' imprisonment on charges of "hooliganism." Beijing daily editor Qi Lin was given a 4-year jail term in April for allegedly leaking state secrets to a Taiwan newspaper; credible sources report Qi was later released from prison on medical parole. Security officials detained Wang Wanxing, who tried to stage an unauthorized one-man demonstration to mark the third anniversary of the June 1989 prodemocracy demonstrations. He later smuggled a letter to the Western press stating that because of his act of protest he had been committed to a mental institution. People participating in unauthorized religious organizations may be charged with criminal offenses such as receiving funds from abroad without authorization or changing such funds on the black market.

Those detained for committing "crimes of counterrevolution" are in theory treated the same as those detained for other crimes, and their cases are supposed to be handled in accordance with the Criminal Procedure Law. In practice, the law's provisions requiring family notification and limiting length of detention are often ignored in "counterrevolutionary" and other political cases. Bao Tong, chief aide to former CCP General Secretary Zhao Ziyang and a former member of the party's Central Committee, was detained for about 2½ years before being formally arrested in early 1992.

A well-documented estimate of the total number of those subjected to new or continued arbitrary arrest or detention is not possible due to the Government's tight control of information. Many reported detentions of dissidents in 1992 were linked to the June 4 anniversary. Around that time, about 30 activists were reported to have been detained in and around Beijing. Some of the detained individuals, like labor activists Han Dongfang, Zhou Guoqiang, Zhang Jinli, and Song Jie, are reported to have been released after a few days, but the status of others is unknown. There were detailed but unconfirmed reports from Hong Kong in August that about 20 dissidents in northwest China had been detained at around the same time. Boston-based student activist Shen Tong, who had returned to China, and two other Chinese citizens, Qi Dafeng and Qian Liyun, were detained on September 1, hours before Shen was scheduled to hold a press conference announcing the formation of a Beijing branch of a prodemocracy organization. After nearly 8 weeks in detention, Shen was released after agreeing to depart immediately for the United States. Qian was subsequently released, but Qi remained in custody at year's end. There was scant information about other individuals in Hunan and Tianjin who may also have been detained in connection with the case.

The Government still has not satisfactorily accounted for the thousands of persons throughout the country who were arrested or held in "detention during investigation" or "administrative detention" status for activities related to the 1989 prodemocracy demonstrations. Many of these persons were not formally arrested or charged with any crime. A human rights organization published information in 1992 specifying that in Hunan alone at least 594 participants in the 1989 demonstrations had been arrested or detained by the end of 1990.

In March Procurator General Liu Fuzhi told reporters that more than 90 percent of suspects accused of crimes associated with the 1989 demonstrations had been brought to trial. Liu did not explain the status of the remaining suspects. Most persons held in connection with the events of 1989, however, were no longer under detention by 1992.

According to dissidents in Beijing, by mid-1992 some 70 to 80 percent of the persons detained in that city in connection with the 1989 demonstrations had been released, in many cases after serving full sentences. Others were released after lengthy detention without trial. Charges against labor activist Han Dongfang, who was released in 1991 on medical parole, were dropped, and he was subsequently allowed to leave the country. Two Hong Kong men arrested in 1989 for aiding dissidents Chen Ziming and Wang Juntao were given early releases on "medical parole" in May and allowed to return to Hong Kong, according to reports from south China. Intellectual Bao Zunxin was released in November on probation after serving more than 3 years of a 5-year sentence following reports of ill health in prison.

e. Denial of Fair Public Trial.—Officials insist that China's judiciary is independent but acknowledge that it is subject to the CCP's policy guidance. In actuality, party and government leaders predetermine verdicts and sentences in some sensitive cases. According to the Constitution, the court system is equal in authority to the State Council and the Central Military Commission, the two most important government institutions. All three organs are nominally under the supervision of the National People's Congress. The Supreme People's Court stands at the apex of the court system, followed in descending order by the higher, intermediate, and basic people's courts.

There was a renewed focus on legal reform in 1992, though it is still difficult to project its ultimate effect. The court system remains deeply flawed. Due process rights are provided for in the Constitution but most often ignored in practice. Both before and after trial, prisoners are subject to severe pressure to confess their "errors." Defendants who fail to "show the right attitude" by confessing their crimes are typically sentenced more harshly. Despite official media and other reports that indicate coerced confessions have led to erroneous convictions, a coerced confession does not in itself prevent conviction. According to judicial officials, however, confessions without corroborating evidence are an insufficient basis for conviction.

Accused persons are given virtually no opportunity to prepare a defense in the pretrial process, during which the question of guilt or innocence is essentially decided administratively. Defense lawyers may be retained only 7 days before the

trial. In some cases even this brief period has been shortened under regulations issued in 1983 to accelerate the adjudication of certain serious criminal cases. Persons appearing before a court are not presumed innocent; despite official denials, trials are essentially sentencing hearings. Conviction rates average over 99 percent. There is an appeal process and, according to the White Paper on criminal reform, Chinese courts heard more than 40,000 appeals in 1990 and 1991. Initial decisions, however, are rarely overturned.

Some officials have acknowledged that trials in China are conducted too rapidly. They blame a shortage of lawyers, of whom there are an estimated 50,000 in China. Under Chinese law there is no requirement that the court appoint a defense attorney for the defendant unless the defendant is deaf, dumb, or a minor. Knowledgeable observers report that defense attorneys appear in only a small number of criminal trials. When attorneys do appear, they have little time to prepare a defense and rarely contest guilt; their function is generally confined to requesting clemency. Defense lawyers, like other Chinese, generally depend on an official work unit for employment, housing, and many other aspects of their lives. They are therefore often reluctant to be viewed as overzealous in defending individuals accused of political offenses. The Criminal Procedure Law requires that all trials be held in public, except those involving state secrets, juveniles, or "personal secrets." Details of cases involving "counterrevolutionary" charges, however, have frequently been kept secret, even from defendants' relatives, under this provision. The 1988 Law on State Secrets affords a ready basis for denying a public trial in cases involving "counterrevolution." There were several closed trials of political cases in 1992, including those of Bao Tong and Fu Shenqi. Even when trials are nominally open, in many cases the only members of the public allowed to attend are officially selected "representatives of the people." Numerous requests by independent foreign observers to attend the trials of Bao Tong and others were turned aside. The Government asserted that foreign observers were not permitted to attend trials unless the alleged crime directly involved a foreigner or a Chinese related to a foreigner.

In the context of China's ongoing anticrime campaign, the CCP leadership has ordered public security, procuratorate, and court officials to speed the process of investigation, trial, and sentencing, raising additional concerns about due process. Lack of due process is particularly troublesome when defendants receive the death sentence. Chinese officials refuse to provide comprehensive statistics on death sentences or executions, but hundreds of executions are confirmed annually. The actual numbers may be much higher. All death sentences are nominally reviewed by a higher court. In a large number of cases, reviews are very rapid, often completed within a few days after sentencing, and result in a perfunctory confirmation of sentence. In addition to the formal judicial system, government authorities can assign persons accused of "minor" public order and "counterrevolutionary" offenses to "re-education through labor" camps in an extrajudicial process. This allows security authorities to deal with political and other offenders without reference to even the nominal procedures and protections the formal criminal process offers. "Reeducation through labor" sentences were used to circumvent the formal criminal process in the cases of some 1979 Democracy Wall activists, and appear to have been used in the same way to deal with some persons involved in the spring 1989 demonstrations.

In 1990 Chinese officials stated that 869,934 Chinese citizens had been assigned to these camps since 1980, with about 80,000 assigned each year and 160,000 undergoing "reeducation through labor" at that time. Justice Ministry officials reiterated the 160,000 figure in 1991. Other estimates of the number of inmates are considerably higher. The Government says that terms of detention run from a normal minimum of 1 year to a maximum of 3, although the "labor reeducation" committee may extend an inmate's sentence for a maximum of 1 year if his "reform attitude" is not good.

The number of persons in Chinese penal institutions considered political prisoners by international standards is impossible to estimate accurately. While government officials deny that the China has any "political" prisoners, they have stated in the White Paper on criminal reform that there are 680 prisons and "reform through labor" institutions, holding 1.1 million inmates. According to the Government, 0.5 percent of these were convicted of "counterrevolutionary crimes," for a total of roughly 5,500 "counterrevolutionary" convicts. Chinese officials gave an Australian human rights delegation in November a somewhat lower figure of 4,000 persons serving sentences for "counterrevolutionary" crimes. These figures include a substantial number convicted of crimes such as espionage that are internationally recognized criminal offenses. On the other hand, the figures exclude detainees in labor reeducation camps and an undetermined number sentenced for criminal offenses due solely to their political and religious activities.

Estimates by some foreign researchers of the number of political and other prisoners are much higher. Many prominent activists, including Chen Ziming, Wang Juntao, Wang Dan, and Wei Jingsheng, remained imprisoned in 1992. Trials of persons linked by the Government to the 1989 demonstrations continued in 1992. In the most closely watched trial, Bao Tong was sentenced on July 21 to 7 years in prison. His appeal was rejected on August 6. Because he had already been detained for 3 years before his trial, he will become eligible for release after 4 years, in May 1996. Bao was convicted for allegedly leaking state secrets and engaging in incitement for "counterrevolutionary" purposes. Gao Shan, Bao's alleged accomplice, was given a 4-year sentence in August. Later that month, economist Wu Jiaxiang, another Bao Tong associate, was given a 3-year sentence and released because of time served. The Government asserted that the trials had been fair and had resulted in lenient sentences, but they were actually characterized by predetermined verdicts, effective denial of defense, and exclusion of independent observers. While some 1989 cases were still being tried in 1992, other democracy movement activists were completing their sentences. Li Minqi, Peng Rong, Chen Fugong, and Xiao Yuan, among others, finished their sentences and were released. In August the Government told an American human rights monitor that Zhu Jianbin, a 37-year-old dissident who had been imprisoned for 11 years because of his involvement in the Democracy Spring Movement of the late 1970's, had been released. Even after release, however, such persons have a criminal record, and their status in society, ability to be employed, freedom to travel, and numerous other aspects of their lives are often severely restricted. This is also true in the case of persons who were never prosecuted or sentenced but whom the Government still considered guilty of counterrevolution.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence.—The authorities extensively monitor and regulate personal and family life, particularly in China's cities. Most persons in urban areas still depend on their government-linked work unit for housing, permission to marry or have a child, approval to apply for a passport, and other aspects of ordinary life. The work unit, along with the neighborhood watch committee, is charged with monitoring activities and attitudes. However, changes in the economic structure, including the growing diversity of employment opportunities and the increasing market orientation of many work units, are beginning to undermine the effectiveness of this system. Search warrants are required by law before security forces can search premises, but this provision is often ignored. In addition, both the public security bureau and procuracy apparently can issue search warrants on their own authority.

The 1982 Constitution states that "freedom and privacy of correspondence of citizens * * * are protected by law," but according to a Western expert on Chinese law, such legislation does not exist. In practice, some telephone conversations are recorded, and mail is frequently opened and censored. The Government has continued its effort to control citizens' access to outside sources of information, selectively jamming Chinese language broadcasts of the Voice of America (VOA) and British Broadcasting Corporation. Despite the effort made to jam VOA, the effectiveness of the jamming varies considerably by region, with audible signals reaching most parts of China.

The compounds in which foreign diplomats, journalists, and business people live are under close physical surveillance, have conspicuously placed television cameras in elevators, and are presumed to be universally electronically monitored. Chinese wishing to visit foreigners are deterred by this pervasive system of monitoring. Since the 1989 crackdown, the Government has intensified its efforts to restrict contact between Chinese citizens and foreigners.

China's population has roughly doubled in the past 40 years. As a result of increasing population pressure, in the 1970's and 1980's China adopted a comprehensive and highly intrusive family planning policy. This policy most heavily affects Han Chinese in urban areas. For urban couples, obtaining permission to have a second child is very difficult. Numerous exceptions are allowed for the 70 percent of Han who live in rural areas. Ethnic minorities are subject to less stringent population controls. Enforcement of the family planning policy is inconsistent, varying widely from place to place and year to year.

The population control policy relies on education, propaganda, and economic incentives, as well as more coercive measures, including psychological pressure and economic penalties. Rewards for couples who adhere to the policy include monthly stipends and preferential medical, food, and educational benefits. Disciplinary measures against those who violate the policy include stiff fines (up to the equivalent of \$4,000 in some parts of China), withholding of social services, demotion, and other administrative punishments, including, in some instances, loss of employment. Unpaid fines have sometimes resulted in confiscation or destruction of personal property. Because penalties for excess births can be levied against local officials and the

mothers' work units, many individuals are affected, providing multiple sources of pressure. Physical compulsion to submit to abortion or sterilization is not authorized but has continued to occur as officials strive to meet population targets. Chinese officials acknowledge privately that there are still instances of forced abortions and sterilizations in remote, rural areas, although the number of such cases is well below levels of the early 1980's. While recognizing that abuses occur, officials maintain that the Government does not condone forced abortion or sterilization and that abuses by local officials are punished. They admit, however, that punishment is rare and have not documented any cases where punishment has occurred.

Data from the relatively comprehensive 1990 census shows that the average number of children per family (2.3) and the population growth rate (1.5 percent) remained significantly higher than comprehensive national enforcement of official policy would produce. Official reports in 1991 that China's population was already 1.15 billion forced the Government to abandon the decade-old target of a population below 1.2 billion in the year 2000. In April 1992, noting that China was at the peak of a baby boom, State Family Planning Commission Minister Peng Peiyun referred to a revised target of 1.294 billion but warned that the country could not afford to relax its family planning policies.

At least, five provincial governments have implemented regulations with eugenics provisions, beginning with Gansu in 1988. These regulations seek to prevent people with severe mental handicaps from having children. National family planning officials say they oppose such legislation, but the Government has taken no action to override these local laws.

Section 2. Respect for Civil Liberties, Including

a. *Freedom of Speech and Press.*—Freedom of speech and self-expression remain severely restricted, although there has been a slight easing of these limits. Tolerance of some criticism of government policies and officials, which had been curtailed after June 1989, began to reemerge in 1992. Citizens are still not permitted to criticize publicly senior leaders or to express opinions that contradict basic Communist Party doctrine which provides for a Socialist state under the party's exclusive control. The Government interprets these principles as circumscribing the various individual rights guaranteed in the Chinese Constitution. People who violate these guidelines are punished.

While television and radio broadcasting and the press remain under party and government control and are used to propagate the currently acceptable ideological line, some more adventurous programs, like the popular "Stories From the Editorial Room," began to appear on Chinese television in 1992. Several of director Zhang Yimou's critically acclaimed films, which had previously been distributed abroad but not in China, were finally permitted to be shown in Chinese theaters or broadcast on Chinese television. In August Politburo member Li Ruihuan called for cultural reforms to accompany the country's economic liberalization drive and argued for a relaxation of censorship and political control over artistic works.

After June 1989, the Government had banned works by authors considered politically unacceptable, but in 1992 journalist Dai Qing, one of the banned writers, had her novella "Snowball" published in a literary anthology. In May the People's University Press printed "Trends of History," an anthology of articles by liberal intellectuals. The book was quickly banned by hardline authorities, but 30,000 copies were distributed nevertheless.

The Government continued to suspect foreign journalists' activities. Some were beaten and briefly detained after they tried to cover an attempted one-man demonstration at Tiananmen Square in June to mark the anniversary of the 1989 protests. Foreign journalists have reported searches of their offices by public security officials and other episodes of surveillance and harassment.

The Government has continued to impose tight controls on colleges, universities, and research institutes. The entering freshman classes at Beijing University and Shanghai's Fudan University were again sent to military camps for a year of training and ideological indoctrination. The State Education Commission has either censored or prohibited numerous textbooks and scholarly works. Mandatory political study sessions continued on campus and in the workplace, although an August commentary in the official Economic Daily criticized workplace political study sessions as a waste of time.

The heavy ideological control of academic institutions and media censorship have forced Chinese journalists and scholars to exercise caution. According to reports in the Western press, Ding Zilin, a professor at People's University, was stripped in 1992 of her Communist Party membership and banned from advising graduate students because she had protested her son's killing during the 1989 crackdown at Tiananmen Square in interviews with foreign reporters. Many scholars, including

some of China's most prominent, have been deterred from exercising free speech and have declined opportunities to publish or present papers on subjects which they fear could be construed as sensitive. On some less sensitive but still controversial subjects, such as economic policy and the Three Gorges Dam Project, the Government has tolerated more vigorous public debate.

b. *Freedom of Peaceful Assembly and Association.*—While the Constitution provides for freedom of peaceful assembly and association, these rights are severely restricted in practice. The Constitution provides, for example, that such activities may not infringe "upon the interests of the State" and in practice protests against the political system or its leaders are proscribed.

Applications for demonstrations in 1992 by dissident labor leader Han Dongfang, Zhang Fengying (the spouse of political prisoner Ren Wandong), and Hou Xiaotian (the spouse of political prisoner Wang Juntao) were disapproved. The Government maintains that some demonstrations have been authorized, but independent observers have not been able to confirm any demonstrations which involved expression of dissident political views.

The CCP organizes and controls professional and other mass associations for the most part. All organizations are required by 1990 regulations to be officially registered and approved. Ostensibly aimed at secret societies and criminal gangs, the regulations also deter the formation of unauthorized political or labor organizations. They have also been used to disband groups, such as unregistered house churches, deemed potentially subversive. Security forces maintain a close watch on groups formed outside the party establishment. The Government often monitors and restricts contact between foreigners and Chinese citizens, particularly dissidents.

c. *Freedom of Religion.*—Repression of religion in China tightened in early 1991 with the Communist Party Central Committee's publication of Document Number 6, which urged imposing tighter control over religious practice. The situation became more complex in 1992, with the Government placing renewed emphasis on reform that would offer the government-sanctioned religious leaders an opportunity to speak out against abuses by "leftist" officials. Religious freedom in China nevertheless remained subject to restrictions of varying severity. While the Constitution affirms toleration of religious beliefs, the Government restricts religious practice outside officially recognized and government-controlled religious organizations. Religious proselytizing is officially restricted to government-registered and sanctioned places of worship. Unauthorized proselytizing is proscribed and sometimes punished, although some discreet proselytizing and distributing of religious texts outside official channels is tolerated. Local authorities have confiscated private property under the guise of searching for illegal religious materials.

The management and control of religion is the responsibility of religious affairs bureaus across China, staffed primarily by party members. Officially sanctioned religious organizations are permitted to maintain international contacts as long as these do not entail foreign control, but proselytizing by foreign groups is forbidden. While some Catholic seminarians have been allowed to study at seminaries abroad, others have been refused permission to leave China for study at foreign seminaries.

The Government, after forcefully suppressing all religious observances during the 1966–76 cultural revolution, began in the late 1970's to restore or replace confiscated churches, temples, mosques, and monasteries. The official religious organizations administer more than a dozen Catholic and Protestant seminaries, nine institutes to train imams and Islamic scholars, and institutes to train Buddhist monks. Students who attend these institutes must demonstrate "political reliability," and all graduates must pass an examination on their theological and political knowledge to qualify for the clergy. The Government supervises the publication of religious material for distribution to ensure religious and political conformity.

Buddhists are by far the largest body of religious believers in China. The Government estimates that there are 100 million Chinese Buddhists, most of whom belong to the dominant Han ethnic group. Other Buddhists belong to the Tibetan, Mongolian, and other ethnic groups. Han Buddhist leaders generally cooperate with the Government and there have been few reports of difficulties.

In Tibet, however, where Buddhism and Tibetan nationalism are closely intertwined, relations between Buddhists and secular authorities have been tense. The Government tightly controls Tibetan Buddhism and does not tolerate religious manifestations that advocate Tibetan independence. The Government condemns the Dalai Lama's political activities and his leadership of a "government in exile," but recognizes him as a major religious figure and has not clamped down on the open veneration of the Dalai Lama by Tibetans. Large amounts of money are being devoted by the Government to reconstruction of the main sacred sites, including the Potala Palace. The practice of religion in Tibet is hampered, however, by the limits the Government imposes on religious education and by the small size of the reli-

gious community compared to traditional norms. Monks at some Tibetan monasteries known for their opposition to Chinese rule face severe travel restrictions.

In areas with large Muslim populations, particularly Xinjiang, Qinghai, and Ningxia, there continues to be concern regarding the sharp restrictions on the building of mosques and the religious education of youths under 18 mandated by the 1988 religion law. Following the 1990 unrest in Xinjiang, the authorities issued regulations further restricting religious activities and teaching. China permits Muslim citizens to make the hajj to Mecca, but limited state financing effectively constrains the number of hajjis. Nongovernment sources indicate that about 1,500 Chinese make the hajj annually.

Daoism, widely practiced in South China, is officially respected as an important part of traditional Chinese culture, but some of its practices conflicting with government strictures against superstition and waste of arable land have been sharply criticized in the press. Traditional folk religion appears to be flourishing in some areas (parts of rural Sichuan, for example) despite official opposition to "feudal superstition."

Only those Christian churches affiliated with either the Catholic Patriotic Association or the (Protestant) Three-Self Patriotic Movement, which the Government established in the 1950's to eliminate perceived foreign domination of Christian groups, may operate openly. Church membership is growing rapidly. In addition, active unofficial religious movements pose an alternative to the state-regulated churches and temples. The unofficial, Vatican-affiliated, Catholic Church claims a membership far larger than the 3.6 million registered with the official Catholic Church, though actual figures are unknown. It has its own bishops and priests and conducts its own services. In addition to the 4.5 million persons who are officially counted as following Protestantism, a large number of Protestants worship privately in "house churches" that are independent of government control. There is a dynamic house church movement in many cities and, like their unofficial Catholic counterparts, house churches often attract more followers than the official Three-Self Patriotic movement churches.

The Government generally tolerates the existence of unofficial Catholic and Protestant churches as long as they remain small and discreet. In some parts of South and East China, official and underground churches seem to coexist and even cooperate. In other parts of South and East China and in Inner Mongolia, Hebei, and Henan provinces, there continued to be credible reports in 1992 of efforts by authorities to rein in activities of the unapproved Catholic and Protestant movements, including raiding and closing a number of unregistered churches.

Authorities in areas including northeast China monitor religious believers, restrict the movements of clergy, and control enrollment in seminaries. This repression has reflected official concern over the Government's inability to control the rapid growth of membership in Christian groups.

Some elderly Catholic priests like Hebei Bishop Liu Guandong, Tianjin Bishop Li Side, Zhejiang Vicar Wang Yijun, and Henan Vicar Jin Dechen were given conditional releases in 1992. Some reports suggested that elderly Catholic bishop Fan Xueyan may have been beaten prior to his death in official custody in Hebei province in April. Another Hebei Bishop, Li Zhenrong, also died in April, shortly after his release from detention. Many bishops, priests, and lay people remained in detention or "reeducation." Gansu Bishop Casimir Wang Milu and Hebei priest Pei Ronggui were still imprisoned. Despite official assurances to the contrary, Shanghai Bishop Fan Zhongliang remained under the Public Security Bureau's restriction of "out on bail pending trial," which prohibits him from saying Mass in public, meeting with foreigners, or leaving Shanghai. Protestants faced the same sort of pressure as Catholics. Members of the Guangzhou house church of Pastor Samuel Lamb (Lin Xiangao) faced intermittent harassment by local authorities, though the church remained open. Although some Protestant leaders and believers remained in detention or reeducation for their religious activities, others like Song Yude and Ding Hai of Henan, Sun Ludian of Guangdong, and Xie Moshan of Shanghai were said to have been released. In May credible unofficial sources reported that Liu Huanwen, a Christian who carried a cross at the 1989 Tiananmen demonstrations, had been released.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The Government uses an identification card system to control and restrict residence patterns within the country. This system's effectiveness has eroded during the economic reform of the last decade. The need for a supplemental work force in major cities has led to general, albeit varied, official tolerance for a large itinerant population which is not in compliance with formal requirements to obtain permission to change residence.

A May 1983 State Council notice on the resettlement of ex-convicts stipulates that in principle they should be repatriated to their former residences or to where their immediate relatives live. However, some former inmates have been denied permission, under the "staying at prison employment" system, to return to their homes, according to human rights organizations. For those assigned to camps far from their residences, this constitutes a form of internal exile. While the Ministry of Justice claims that only 200 to 300 former prisoners are currently held under this system, outside observers place the number much higher.

While routinely permitting foreign travel or emigration by almost all Chinese who wish to do so, the Government has placed obstacles in the way of foreign travel by a few citizens on political or other grounds. Well-known dissidents like Hou Xiaotian, Yu Haocheng, and Li Honglin have been unable to obtain permission to travel abroad. Activist Xiong Yan was only able to leave the country by traveling without official authorization. Other prominent figures like labor leader Han Dongfang, writers Wang Ruowang and Bai Hua, scientist Wen Yuankai, journalists Wang Ruoshui, Zhang Weiguo, and Zhu Xingqing, and scholar Liu Qing were eventually able to obtain the passports and exit permits needed to leave the country. In some instances, exit permission was granted only after the United States, other governments, or international human rights organizations repeatedly raised particular cases with the Government. Regulations issued in 1990 require those college and university graduates who received free postsecondary education to repay the cost of their education to the State by working for 5 years or more before being eligible for passports to go abroad to study. For those who have overseas Chinese relatives or have not yet graduated, the regulations provide a sliding scale of tuition reimbursement exempting them from the work requirement. Implementation of these regulations has varied from place to place, and most students are still managing to obtain passports. Persons subject to the regulations on study abroad appear to have had little trouble obtaining passports to visit relatives overseas. Political attitudes, however, are still a major criterion in selecting people for government-sponsored study abroad.

The Government has made a concerted effort to attract back to China persons who have studied overseas. To reassure them, the official Xinhua News Agency reported that, effective July 1, Chinese citizens who returned from overseas would no longer be required to go through re-exit formalities, which had involved Public Security Bureau clearances. In August the Government made public a State Council circular welcoming students to return to China. The official China Daily invoked Deng Xiaoping as the authority for these measures, stating that during his southern China tour early in 1992, Deng had pointed out that people who are studying overseas may return "regardless of their past political views." The article cautioned that before returning home, people who have joined foreign organizations hostile to China should quit them and refrain from activities that violate Chinese law. Procurator General Liu Fuzhi warned in March, however, that people wanted by the public security authorities were not covered by the official assurances extended to other overseas scholars.

Some activists managed to reenter China in 1992, while others were prevented from returning. Journalist Dai Qing, who had been allowed to leave China in late 1991 to do research at Harvard, was able to travel back to Beijing in the summer of 1992, after some initial difficulties, and then leave again for the United States. Others, including dissident writer Xu Gang, also returned, apparently without incident. Boston-based student activist Shen Tong was released from almost 8 weeks of detention only after agreeing to depart China for the United States immediately. Some individuals, like Luo Haixing in Hong Kong and Harvard University student Gong Xiaoxia, were refused permission to reenter China, according to credible reports. A handful of prominent dissidents overseas continued to have difficulty in extending or renewing passports.

The Government accepts the repatriation of citizens who have entered other countries or territories illegally, in most cases apparently without punishing them, although Lin Guizhen, a Chinese woman deported from Japan while seeking political asylum, was assigned to 6 or 12 months (accounts vary) of "reeducation" for leaving China without authorization.

Although the Government denies having tightened its policy on accepting Vietnamese refugees, in recent years very few such refugees have actually been resettled in China. According to Chinese official figures, from 1989 to 1991 China granted admission and provided resettlement to about 130 Vietnamese refugees who came to China to reunite with their families, and gave temporary refuge to 35 Vietnamese who subsequently settled in third countries. There were credible reports that larger numbers of Vietnamese have remained in China without official harassment. China has cooperated with Hong Kong to reduce the flow of Vietnamese refu-

gees into the colony. Although China has signed the Comprehensive Plan of Action negotiated at the International Conference on Indochinese Refugees in 1989, it is unclear whether China considers itself a "participating state."

Credible reports suggest that China has generally repatriated persons of other nationalities seeking refugee status. The Government stated in April it had granted temporary refuge to an unspecified number of Burmese refugees, and denied press reports that Chinese border troops had attacked such refugees. No independent confirmation is possible. In July China expelled to Pakistan about 160 Afghan refugees, apparently without informing the United Nations High Commissioner for Refugees (UNHCR) and despite the fact that the UNHCR had accepted the Afghans as "persons of concern" and was in the process of deciding whether they qualified as refugees under the U.N. Convention on Refugees.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens lack the means legally to change their government, nor can they freely choose or change the laws and officials that govern them. China is ruled by the Communist Party, the paramount source of political authority. Within the party, a closed inner circle of a few senior leaders reserves the right to set ultimate policy directions. Some hold key positions within the standing committee of the Politburo, the Central Military Commission, or other organs. Others, nominally retired, continue to exercise great political influence. Deng Xiaoping, now 88, forcefully reasserted his de facto preeminence within the Chinese political leadership in 1992.

According to the 1982 Constitution, the National People's Congress (NPC) is the highest organ of state power. It nominally selects the President and Vice President, decides on the choice of the Premier, and elects the Chairman of the Central Military Commission. The election and agenda of the NPC remains under tight control by the Communist Party. However, in March and April the NPC conducted relatively open debate and voting on the controversial issue of the Three Gorges Dam Project.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no independent Chinese organizations that publicly monitor or comment on human rights conditions in China. The Government has made it clear it will not tolerate the existence of such groups. After being detained in Shanghai in the spring of 1991 for publishing a human rights newsletter, Fu Shenqi was convicted in 1992 of "counterrevolutionary" crimes; two others detained in the same incident were released without trial. However, three intellectuals, Guo Luoji, Yu Haocheng, and Wang Ruoshui, joined the board of an international human rights organization in 1992. Representatives from some international human rights groups, but not others, managed to get permission to visit China, but even in these cases access to information remained very limited.

Despite the Government's adherence to the United Nations Charter, which mandates respect for and promotion of human rights, Chinese officials do not accept the principle that human rights are universal. They argue that each nation has its own concept of human rights, grounded in its political, economic, and social system and its historical, religious, and cultural background. Officials no longer dismiss all discussion of human rights as interference in the country's internal affairs but remain reluctant to accept criticism of China's human rights situation by other nations or international organizations. They reject reports by Amnesty International, Asia Watch, and other international human rights monitoring groups on torture and other human rights violations. The Chinese Foreign Ministry characterized as unacceptable the Department of State's 1991 report on human rights practices in China. Chinese officials have stepped up their criticism of human rights problems in other countries while arguing, paradoxically, that foreigners have no right to criticize human rights abuses in China.

The State Council information office published White Papers in 1992 on China's criminal justice system and on Tibet. While the reports stridently defended Chinese practices in both areas and glossed over fundamental problems, some critics saw them as offering a modest opening for further debate on these subjects. After publishing the White Paper on the justice system, Justice Minister Cai Cheng stated that China was willing to promote contact and cooperation with foreign countries in criminal reform, but how far China is prepared to go in this area remains to be seen.

Chinese officials continued efforts begun in 1991 to promote academic study and discussion of concepts of human rights. Research institutes in Shanghai and Beijing organized symposia on human rights and established human rights research cen-

ters. A 4-member delegation from the Chinese Academy of Social Sciences visited the United Kingdom, France, and Sweden in February and March to study human rights practices in these countries. Such activities appear to have originated in a desire to improve China's image abroad and strengthen the Government's ability to respond to criticism of its human rights record. Chinese authorities continued their limited dialog with foreign governments on human rights issues in talks with a number of visiting delegations from the United States, the United Kingdom, Australia, and other countries and also during visits abroad by Chinese leaders. Whatever the motivation, this process of study and dialogue has exposed more Chinese to international standards and concepts of human rights.

At the same time, Chinese authorities have refused requests by foreign human rights delegations to meet with political prisoners and certain former political detainees and dissidents and have turned aside calls by the United States and other governments and by human rights groups for International Committee of the Red Cross access to prisoners. Three Canadian legislators were expelled from China in January, apparently for having planned to make a symbolic gesture against human rights abuses. In a similar incident in April, a British parliamentarian and several European labor leaders were required to leave the country. An Australian human rights group led by Senator Schacht was refused permission to visit Tibet.

Section 5. Discrimination Based on Race, Sex, Religion, Language, or Social Status

While laws exist to protect minorities and women, in practice discrimination based on ethnicity, sex, and religion has persisted. Areas in which discrimination exists include housing, jobs, and education. Minorities benefit from a policy of "privileged treatment" in marriage, family planning, university admission, and employment, as well as disproportionate infrastructure investment in some minority areas. In practice, however, discrimination based on ethnic origin persists, and the concept of a largely homogeneous Chinese people pervades the general thinking of the Han ethnic majority.

The 55 designated ethnic minorities constitute just over 8 percent of China's total population. Most minority groups reside in areas they have traditionally inhabited, with standards of living often well below the national average. Government development policies have helped raise minority living standards but have at the same time disrupted traditional living patterns. In August the Dalai Lama asserted that the Government's plan to develop Tibet's economy would lead to a massive influx into Tibet of Han Chinese. This process already affects the ethnic mixture in Lhasa, as tens of thousands of Han entrepreneurs move in.

In some instances, the Government has tried to adopt policies responsive to minority sensitivities but in doing so has encountered the dilemma of how to respect minority cultures without damaging minority interests. In Tibet and Xinjiang, for example, there are two-track school systems using standard Chinese and minority languages. Students can choose which system to attend. One side effect of this policy to protect and maintain minority cultures has been reinforcement of a segregated society. Under this separate education system, those graduating from minority schools are at a disadvantage in competing for jobs in government and business, which require good spoken Chinese. These graduates must take remedial language instruction before attending universities and colleges.

The CCP's avowed policy of boosting minority representation in the Government and the CCP has led to some increase in the number of members of minorities in leadership slots. This has failed, however, to alter the reality that ethnic minorities are effectively shut out of all but a few positions of real political and decisionmaking power. Some minorities resent Han officials holding key positions in minority autonomous regions. Ethnic minorities in Tibet, Xinjiang, and elsewhere have demonstrated against Han Chinese authority. Central authorities have made it clear that they will not tolerate opposition to Beijing's rule in minority regions. Although martial law in Lhasa was lifted in 1990, Tibetans like Yulo Dawa Tsering, Ngawang Pulchung, and Jempel Tsering remained imprisoned in 1992. According to human rights organizations, demonstrations were held in Lhasa in March, with four monks and three nuns beaten and detained by public security forces. Another group of Tibetans was said to have been arrested in June. Smaller scale protests are reported to occur frequently in the Tibetan capital. While repression continued, there was at the same time a resumption of dialog on Tibet. In the summer, the Dalai Lama's brother Gyalo Thondup visited Beijing, in the highest level contact between a representative of the Dalai Lama and the Government since 1989. China's White Paper on Tibet excoriated the "Dalai Lama's clique" for its advocacy of "separatist" practices but left the door slightly ajar for further contacts.

Ethnic tension in inner Mongolia and Xinjiang persisted at a low level. Three Inner Mongolian independence activists were given sentences ranging from 2 to 8

years on charges of engaging in "splittist propaganda," according to press reports from Hong Kong. Following a bomb explosion in Urumqi in February, the head of the Xinjiang regional government accused separatists of stepping up sabotage and subversion and said the army, police, and militia were being mobilized against this threat.

The 1982 Constitution states that "women in the People's Republic of China enjoy equal rights with men in all spheres of life," and promises, among other things, equal pay for equal work. In fact, most women employed in industry work in lower skilled and lower paid jobs. Women hold relatively few positions of significant influence within the party or government structure. Persistent problems have remained with regard to the status of women, who have often been the unintended victims of reforms designed to streamline enterprises and give workers greater job mobility. Many employers prefer to hire men to avoid the expense of maternity leave and child care. Reports by women of discrimination, sexual harassment, unfair dismissal, demotion, and wage cuts have continued. In March the NPC enacted legislation on the protection of the rights and interests of women designed to assist in curbing these types of sex-related discrimination.

While the gap in the education levels of men and women is narrowing, men continue to constitute the majority of the educated, particularly the highly educated, and government-funded scholarships for overseas study go disproportionately to men.

The Government strongly condemns and is working hard to curb the abduction and selling of women for wives, abuse of female children, violence against women, and female infanticide. It has severely punished a number of people accused of such crimes. Many discriminatory practices are rooted in traditional rural attitudes which highly value boys as prospective earners and as future caretakers for elderly parents. A number of provinces have sought to reduce the perceived higher economic value of boys in providing old age support by establishing or improving pensions and retirement homes.

Female infanticide has persisted in impoverished rural areas. Insistence that local units meet population goals contributes to the persistence of this traditional practice, generally carried out by parents who hope to have more sons without incurring official punishment. The Government strongly condemns infanticide and has prosecuted offenders but has been unable to eradicate the practice.

There is evidence of discrimination in China on the basis of religion. Party officials state that party membership and religious belief are incompatible. This places a serious limitation on religious believers, since party membership is required for almost all high positions in government and commerce. While there are some religious believers in the CCP, especially in minority autonomous regions, few hold substantial leadership positions. Officials responsible for religious affairs work are generally not believers in religion.

Another group against whom the Government discriminates is political prisoners' families. Zhang Fengying, wife of imprisoned activist Ren Wanding, was evicted, along with her sick teenage daughter, from her apartment in April. Ren's work unit owns the apartment. The work unit apparently wanted to reassign the housing to another worker. This is but one example of the kind of discrimination the families of political prisoners sometimes encounter in obtaining jobs or permission to travel abroad, and in obtaining or keeping housing.

Section 6. Worker Rights

a. The Right of Association.—China's 1982 Constitution provides for "freedom of association," but the guarantee is heavily diluted by references to the interest of the State and the leadership of the CCP. Though union officials recognize that workers' interests may not always coincide with those of the party, the union law passed at the National People's Congress in March states that the union is a CCP organ and its primary purpose is to mobilize workers for national development. The country's sole officially recognized workers' organization, the All-China Federation of Trade Unions (ACFTU), ostensibly independent, is in fact CCP controlled. There are no overtly operating independent trade unions in China. While union membership is voluntary for individual employees, enterprises are generally required to have a union. Most state sector and urban workers are members of ACFTU chapters. Unemployed workers are not considered union members. Workers in companies with foreign investors are guaranteed the right to form unions (which then must affiliate with the ACFTU). Some managers of such companies report significant union activity and have had to bargain with these unions over wages and benefits. Union officials state that only 20 percent of joint and wholly foreign-owned ventures have unions, but add that the proportion is much higher in larger firms and in companies with investments by North American and European partners. These officials, who

attribute the lack of unions in other companies with foreign investors to the newness of the firms, claim to be actively organizing unions in unorganized companies with foreign investors and report little opposition from the foreign owners.

The right to strike, which had been included in China's 1975 and 1978 constitutions, was not retained in the 1982 Constitution. In 1983, however, the ACFTU Chairman asserted that, if a trade union and its labor protection safety officers determine that a workplace is too dangerous, the union would organize the workers to leave the hazardous areas. This limited right to protest or strike was reasserted in a committee chairman's speech before the National People's Congress in March explaining the 1992 Trade Union Law; the law, itself, enables the union to "suggest that the staff and workers withdraw from the sites of danger" and to participate in accident investigations. In general, the union law passed in 1992 assigned unions the role of mediators or go-betweens with management in cases of work stoppages or slowdowns. While Ministry of Labor Officials deny that any strikes have recently taken place, Western and Chinese press and business people report labor unrest and even factory wide strikes occurred on an increased scale during the summer and spring. This has been particularly well-documented in Tianjin and Northeast China, where workers struck or engaged in violent acts when state enterprises began to fire excess workers. In response to worker unhappiness, the Government modified its labor reform efforts reducing administrative pressures to fire workers at the same time as rapid economic growth reduced the economic pressure. The result was a diminution in tension between workers and management by the end of the year.

Since late 1991 the Western press has reported increasing underground union activity throughout China, including one workers' movement that models itself on the Poland's Solidarity. Independent labor leader Han Dongfang, whom the PRC allowed after many delays to travel abroad, told the press in Hong Kong in September that workers in many parts of China are forming small "self-motivated" organizations focused on worker welfare and factory floor issues. Press reports indicate that the Government is attempting to stamp out all clandestine union activity and that independent unions and worker groups feature prominently in lists of illegal organizations. There have been reports of additional union-related detentions in 1992, and some worker leaders who attempted to form independent unions in 1989 are still in detention. ACFTU international activities are subject to CCP policy guidance. The ACFTU claims to have contact with trade unions in over 120 countries, without regard to the foreign union's ideological orientation.

b. The Right to Organize and Bargain Collectively.—The Government does not permit collective bargaining in most enterprises. Without legal status as a collective bargaining body, the ACFTU's role has been limited to consultations with management over wages and regulations affecting labor and working conditions and efforts to serve as a conduit for communicating workers' complaints to the management of enterprises or municipal labor bureaus. The ACFTU has shown itself concerned about protecting workers' living standards in areas such as unemployment insurance.

Under the labor contract system that now covers approximately 10 percent of China's urban work force, individual workers may negotiate with management over contract terms. Although the number of workers involved is still proportionally low, since the practice started under reforms initiated in the late 1980's and was given new emphasis in 1992, the old permanent employment system is giving way to the more flexible contract-based system. When enterprises change the terms of employment from permanent to contract based, however, the employees have no opportunity to negotiate this basic structural change individually or collectively, but can only seek to modify the details of their new contracts. Only the very few workers with highly technical skills are able to negotiate effectively on salary and fringe benefits issues.

A 1988 law states that trade unions in private enterprises, which currently employ only about 1 percent of urban workers, have the right to represent employees and to conclude collective bargaining agreements. There have been no reports of unions in private enterprises actually engaging in collective bargaining over wages, contract, or safety issues. The ACFTU, which has never attempted collective bargaining, has taken the view that it is the sole legitimate Chinese workers' organization and is accordingly the appropriate union to organize the workers in private enterprises.

Worker congresses, held periodically in most Chinese enterprises, theoretically have the authority to remove incompetent managers and approve major decisions affecting the enterprise (notably wage and bonus distribution systems). Worker congresses generally take place only once a year, however, and serve essentially to rubberstamp agreements worked out between factory managers, party secretaries, and union representatives.

A dispute settlement procedure has been in effect since 1987. The procedure provides for two levels of arbitration committees and a final resort to the courts. Almost all cases are resolved at the first or second level. According to Labor Ministry officials, most arbitration cases are filed by contract workers or their employers, an indication that the new contract system provides a clearer set of ground rules which both sides can attempt to enforce.

Laws governing working conditions in China's special economic zones are not significantly different from those in the rest of the country. Labor Minister Ruan Chongwu confirmed in 1992 that a previous regulation that limited joint venture employees' wages to 120 percent of state enterprise employees' wages was no longer in force. Numerous press reports indicate that some workers in special economic zones, although paid more than those in Chinese state enterprises, put in regular workdays as long as 12 hours.

c. Prohibition of Forced or Compulsory Labor.—While China has generally abandoned its traditional use of massive corvée labor for constructing infrastructure projects and public facilities, workers are still sometimes "mobilized" to augment public security forces and for public works projects. Imprisonment in China usually entails compulsory labor. As the names imply, forced labor is a cornerstone of the Chinese "reform through labor" and "reeducation through labor" systems. Almost all persons the courts sentence to prison or forced labor camps, including political prisoners, are required to work, usually for little or no compensation. China also maintains a network of "reeducation through labor" camps (see Section 1.e.), the inmates of which generally must work. Reports from human rights organizations and released prisoners demonstrate that at least some prisoners in pretrial detention are also required to work.

Chinese penal policy emphasizes "reform first, production second," but compulsory labor is an integral part of the system both to rehabilitate prisoners and to help support the facilities. According to prison authorities, prisoners in labor reform institutions work a full 8-hour day and must also engage in both ideological and basic literacy and skills training. Justice officials have stated that in labor reeducation facilities there is a much heavier emphasis on education than labor. Most reports conclude that work conditions in the penal system's export-oriented light manufacturing factories are similar to those in ordinary factories, but conditions on labor farms and in coal mines are harsh. There have been an increasing number of reports that "reform through labor," and possibly "reeducation through labor" facilities as well, rent prisoners out to ordinary factories to work.

The State Council's 1992 White Paper on criminal reform reported that prison labor production for 1990 was valued at about \$500 million. This figure, which cannot be confirmed, would not include the output from "reeducation through labor" facilities.

Various Chinese newspapers have reported that Chinese prison labor is used for many types of production (examples in parenthesis): infrastructure (roads); heavy industry (coal; steel); light manufacturing (clothing, shoes; small machine tools); and agriculture (grain, tea, sugar cane). Press reports, the 1990 Chinese Law Yearbook, and U.S. Customs Service investigations demonstrate that some of these goods are exported.

The U.S. Customs Service has issued orders barring a number of products reportedly made by prisoners from entering the United States and has detained several shipments of such goods. In 1991 the Chinese Government published a reiteration of its regulations barring the export of prison-made goods. On August 7, 1992, the U.S. and Chinese Governments signed a memorandum of understanding on trade in prison labor products, which allows for both sides to exchange information and evidence related to suspected exports of prison labor products from China to the United States and enables U.S. officials to visit suspect facilities.

d. Minimum Age for Employment of Children.—Regulations promulgated in 1987 prohibit the employment of school age minors who have not completed the compulsory 9 years of education. Statistics on school attendance demonstrate that approximately 20 percent of school age children in cities and villages do not attend school and therefore are likely to be working. The number may well be higher in poorer and isolated areas, where child labor in agriculture is believed to be widespread. Officials note that state enterprises are generally overstaffed and therefore have no reason to hire children. Some independent observers believe there is some employment of adolescents below the age of 16 in private enterprises in south China but agree with Chinese officials that China's urban child labor problem is relatively minor.

In 1991 the State Council issued regulations designed to curb child labor problems. They impose severe fines, withdrawal of business licenses, or jail for employers who hire child laborers under 16 years of age. Labor officials in South China

have described an active effort to curb child labor through periodic inspection and fines. Thus far these officials have been reluctant to use the more stringent punishments at their disposal.

e. *Acceptable Conditions of Work.*—China does not have a labor code. A draft is reportedly circulating, but it remains unclear if or when it will be published or made law.

There is no minimum wage in China, but administrative regulations reportedly fix the minimum "living wage" in at least some large cities at around \$10 monthly. Union officials report this figure applies to those who cannot work because of long-term unemployment, disability, or for other reasons. In Beijing all employed workers earn more than \$20 per month. This amount is believed to be lower in areas with a lower cost of living. These figures do not include additional free or heavily subsidized benefits in kind which employing work units commonly provide, such as housing, medical care, and education. Factories or ministries are required to pay 70 percent of final monthly wages to workers laid off because of a factory closing or reduction in force, but there have been numerous reported violations of this practice.

The legal standard workweek excluding overtime is 48 hours, of which 3 to 12 hours are generally spent in political study or "education" on current social issues. In recent years many factories have abandoned political study either for regular work or for an additional half day off each week. Starting in 1991 and 1992, factories (including joint ventures) have been allowed to have shorter workweeks if they choose.

Occupational health and safety are constant themes of posters and campaigns. Every work unit must designate a health and safety officer; the International Labor Organization has established a training program for these officials. These issues have received increasing attention from senior officials including Premier Li Peng and Vice Premier Zhu Rongji, but pressures for increased output, lack of financial resources to maintain equipment, and a traditionally poor understanding of safety issues by workers have contributed to poor results thus far. State prosecutors deal annually with thousands of negligence and accident cases involving criminal or civil liability. In November 1992, the Standing Committee of the National People's Congress passed a law on mining safety. The law, effective in May 1993, will establish standards and provide for enforcement by fines and imprisonment. Because of the lack of similar legislation to bring together diverse and often unpublished regulations in other health and safety areas, compliance with existing regulations is often haphazard.

The Role of UNFPA Assistance in ChinaExecutive Summary

In 1985, the A.I.D. Administrator determined that the United Nations Population Fund (UNFPA) was ineligible to receive US contributions under the Kemp-Kasten Amendment, which prohibits funding "to any organization or program which, as determined by the President, supports or participates in the management of a program of coercive abortion or involuntary sterilization."

This paper explains the reasons for a new determination concerning the eligibility of UNFPA for US funding. The Kemp-Kasten prohibition should not apply to UNFPA because:

(1) UNFPA neither supports nor participates in the management of a program of coercive abortion or involuntary sterilization in China.

(2) The assistance provided by UNFPA, in collaboration with a number of other international agencies as well as US-based NGOs, promotes international norms concerning family planning, serves health and humanitarian objectives, and provides substantial direct benefits to the people of China.

The assistance UNFPA is currently providing in China supports:

- measures to improve quality of care in family planning, including access to modern methods;
- other research, training, and communications activities which help to demonstrate the feasibility and desirability of a family planning program that complies with international norms; and
- programs to improve the health and status of rural Chinese women.

Background

China's Population Policy and Program. China has officially pursued the goal of "one-child" families since 1979. The policies and programs that have been put in place to achieve this goal have included a combination of incentives, disincentives, peer pressure, and investment in making family planning information and contraceptive and abortion services widely available. The policies have evolved over time and have varied significantly in their implementation across the provinces and localities of China. The average family in China today, as measured by the total fertility rate of 2.3 in 1990, has more than two children, and the total population has grown from just under 1 billion in 1980 to close to 1.2 billion currently.

While the debate continues about the extent of coercion, few question the proposition that there continue to be many instances of pressure on Chinese men and women to undergo sterilizations or terminate pregnancies against their will. (See Tab B.)

Current UNFPA Assistance in China. UNFPA has provided assistance in China since 1980 and is now in the third five-year cycle of assistance. The total amount committed for the period 1990-1995, as approved by the UNDP Governing Council in June 1989, is \$57 million.

UNFPA-funded activities in China are carried out in collaboration with eleven other international governmental and non-governmental agencies, all of whom, like UNFPA, are accountable for their activities and expenditures to their governing bodies. The largest single executing agency for UNFPA in China, accounting for over 25 percent of all UNFPA allocations for 1992-1995, is the Program for Appropriate Technology in Health (PATH), a US-based NGO which has been active since 1976 in health and family planning programs in more than 50 developing countries. (See Tabs D, E and F for a listing provided by UNFPA of the agencies, levels of expenditure, and specific projects supported by UNFPA.)

(1) UNFPA neither supports nor participates in the management of a program of coercive abortion or involuntary sterilization in China.

- UNFPA assistance, averaging \$10-11 million per year, amounts to less than one percent of the total amount spent by the Chinese government on family planning in a year (over \$1.1 billion, including one-child incentives, according to a recent analysis for the World Bank by Census Bureau officials), or to a little more than a penny per capita.

- All UNFPA assistance is executed by international and non-governmental agencies. Over 90 percent of the assistance is channeled through eleven other "executing agencies" which actually provide the technical advisers, workshops, materials, and equipment for the activities supported. (See Tab E.) (By comparison, in other countries, such as India, a much larger proportion of UNFPA funding is provided to governments under arrangements for "government execution" of projects.) The remaining assistance executed by UNFPA supports procurement of equipment for technical assistance activities, occasional consultants and subcontracts to PATH and the International Institute on Aging, and some technical assistance to the Department of International Relations (DIR), UNFPA's counterpart in the Ministry of Foreign Economic Relations and Trade. UNFPA's project with DIR (CPR/90/P32 in Tab F) helps DIR to coordinate the assistance China is receiving and develop appropriate financing and reporting systems.
- UNFPA maintains a small office in Beijing with a country director and two other professional level staff. In addition, two other resident technical advisers working with FAO and UNICEF are supported in China with UNFPA funds. None of these individuals supports or participates in any way in the management of the program. Their responsibilities are to provide technical advice in connection with the specific projects. Other consultants, a number of them based in the United States, also provide technical support to UNFPA-funded projects.
- Unlike other countries where local salary support is a component of UNFPA assistance, UNFPA does not support salaries of Chinese officials or service providers.
- UNFPA assistance does not support abortion or abortion-related activities in China. Although UNFPA projects do support contraceptive commodities, basic MCH equipment, and training for family planning workers, the projects do not support operating costs of services such as sterilization.
- UNFPA assistance does support improved quality of care in family planning and development of Chinese capability to manufacture modern contraceptive methods.
- UNFPA assistance for demographic data collection and analysis, which is similar to assistance it provides to many other countries, is unrelated to actions to enforce individual compliance with birth targets.

(2) UNFPA assistance, provided in collaboration with other international agencies, promotes international norms concerning family planning, serves humanitarian and health objectives, and provides substantial direct benefits to the people of China.

International norms. The principles and norms which have been embodied in international instruments since 1968 do not sanction coercion. As stated in the consensus adopted in 1984 by governments assembled at the International Conference on Population in Mexico City: "All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so; the responsibility of couples and individuals in the exercise of this right takes into account the needs of their living and future children, and their responsibilities towards the community."

Current UNFPA projects in China. UNFPA's assistance in China currently includes the following project activities (see Tab F for further description of the projects and the amounts budgeted by project number):

- measures to improve quality of care in family planning:
 - a joint project with UNICEF and PATH to improve integrated maternal and child health/family planning services provided by the Ministry of Health in 300 of China's poorest counties (CPR/90/PO1, 89/P60);
 - training projects with WHO for family planning administrators that include logistics management, interpersonal communications and counselling, and technical information on contraceptive methods (CPR/90/P27 and 91/P26);
 - a project executed by UNFPA with a subcontract to PATH to support training of trainers for rural family planning workers in contraceptive technology and interpersonal communications (CPR/91/P35);
 - contraceptive research, development, and production projects executed by WHO and PATH to expand the choice and quality of methods available, including Copper T IUDs, condoms, and spermicides (CPR/90/P25, 91/P11, 91/P12, 91/P13, 91/P14, 91/P15, 91/P43). As a result of a UNFPA-funded study, the State Family Planning Commission has decided that China will cease production of the inferior stainless steel IUD as of January 1, 1993.

- other research, training, and communications activities which help to demonstrate the feasibility and desirability of a family planning program that complies with international norms. These activities have included training over 90 Chinese fellows in the United States since 1985 and bringing officials of the Policy and Evaluation Division of the State Family Planning Commission on a study tour to the United States to meet with US NGOs in August 1992.
(CPR/90/P07)
- support executed by the UN, ESCAP, and others for demographic data processing, and demographic and family planning training and research (CPR/89/P07, 90/P05, 90/P06, 90/P07, 90/P08, 90/P16, 91/P04, 91/P22, 91/P23, 91/P33, and 91/P41);
- a project with UNDP to increase family planning education (CPR/90/P17);
- projects with UNESCO to integrate population education in the regular curriculum of secondary schools (CPR/91/P19, 91/P20)
- demonstration projects to improve the health and status of rural Chinese women.
- projects executed by FAO to support income-generating and training activities for women (CPR/89/P02, 91/P28, 91/P30, 91/P36, and 92/P42).

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UNITED NATIONS POPULATION FUND
PROPOSED PROGRAMMES AND PROJECTS
Recommendation by the Executive Director
Assistance to the Government of the People's Republic of China
Support for a national population programme

Proposed UNFPA assistance: \$57 million

Estimated value of the
Government's contribution: 1,468 million Renminbi Yuan (US\$400 million)

Duration: Five years

Estimated starting date: January 1990

Executing agencies: Government of the People's Republic of China
United Nations
Food and Agriculture Organization of the United Nations (FAO)
United Nations Educational, Scientific and Cultural Organization (UNESCO)
World Health Organization (WHO)
United Nations Development Programme (UNDP)
United Nations Population Fund (UNFPA)
Japanese Organization for International Co-operation in Family Planning (JOICFP)
Program for Appropriate Technology in Health (PATH)

Government co-ordinating agency: Department of International Relations/
Ministry of Foreign Economic Relations and Trade (DIF/MOFERT)

CHINA

Demographic facts

Population Total (000)		Population density (/sq. km.) .	110
Total	1,059,322	Average annual change (000)	
Males	545,794	Population increase	15,195
Females	513,728	Births	22,507
Sex ratio (/100 females) .	106.2	Deaths	7,312
Urban	218,576	Net migration	0
Rural	840,946	Annual population total	1.39
Per cent urban	20.6	Growth rate (%): urban	2.16
Population in year 2000 (000)	1,285,894	rural	1.18
Functional age groups (%)		Crude birth rate (/1000)	20.5
Young child: 0-4	8.8	Crude death rate (/1000)	6.7
Child: 5-14	20.9	Net migration rate (/1000)	0.0
Youth: 15-24	22.4	Total fertility rate (/woman) .	2.36
Elderly: 60+	8.2	Gross reproduction rate (/woman)	1.15
65+	5.3	Net reproduction rate (/woman) .	1.07
Women: 15-49	26.0	Infant mortality rate (/1000) .	32
Median age (years)	24.0	Life expectancy at birth (years)	
Dependency ratios: total . . .	53.9	Males	68.0
(/100) Aged 0-14	45.8	Females	70.9
Aged 65+	8.1	Both sexes	69.4
Agricultural population density		GNP per capita	
(/hectare of arable land) . . .	7.29	(U.S. dollars, 1986)	300

Sources: Population density on arable land is derived from two publications issued by the Food and Agriculture Organization of the United Nations: FAO Production Yearbook 1985 and World-wide Estimates and Projections of Agricultural and Non-Agricultural Population Segments 1950-2025, ESS/M15/86/2; gross national product per capita: World Bank, World Development Report 1988. Figures for population by sex, population by age group, age indicators, urban-rural population, and population density (/sq. km.) refer to the year 1985; figures for average annual change, rate of annual change, and fertility and mortality are the five-year averages for 1985-1990. These data are from the Population Division, Department of International Economic and Social Affairs of the United Nations, World population prospects: The 1988 Revision (forthcoming).

I. SUMMARY

1. The United Nations Population Fund (UNFPA) proposes to support a comprehensive population programme in the amount of \$57 million for a period of five years, beginning in January 1990, to assist the Government of the People's Republic of China in achieving its population and development objectives. The proposed programme, UNFPA's third in China, is based on the findings and recommendations of a joint UNFPA/Chinese Government programme evaluation exercise undertaken in July-August 1988 and takes into account the priorities reflected in the country's Seventh Five-Year National Development Plan (1986-1990).

2. The People's Republic of China, a priority country for UNFPA assistance, is committed to the policy of balancing economic development with population growth. To help China in attaining its population goals, UNFPA assistance would focus on the local production of modern, safe and effective temporary contraceptives; the extension of maternal and child health and family planning (MCH/FP) services to the 300 poorest counties in the country; the development of special projects to improve the lives and status of women; and the strengthening of information, education and communication (IEC) activities, in particular at the grass-roots level and among young people. UNFPA assistance would also seek to strengthen contraceptive and demographic research and to improve the status of certain groups in society, such as the young and the aged, women and ethnic minorities.

3. All projects under the proposed programme, as in all UNFPA-assisted programmes, would be undertaken in accordance with the principles and objectives of the World Population Plan of Action; that is, that population policies should be consistent with internationally and nationally recognized human rights of individual freedom, justice and the survival of national, regional and minority groups (para. 14 (d)); that respect for human life is basic to all human societies (para. 14 (e)); and that all couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so (para. 14(f)).

II. BACKGROUND

4. With a 1987 population estimated at 1.085 billion, the People's Republic of China is the world's most populous country. China has had family planning programmes since 1953, but problems encountered in the early years allowed the population to grow rapidly until the late 1970s. In 1979, the Government adopted a population policy of promoting late marriage, the one-child family and longer intervals between births. The policy was not uniformly applied to all sectors of Chinese society, however. Couples in rural areas, for example, generally have had more than one child, and members of ethnic minority groups have not been expected to adhere to the one-child policy. Nevertheless, China's population activities have achieved dramatic results. The annual rate of population growth declined from 2.20 per cent in 1970-1975 to 1.23 per cent in 1980-1985. The rate of natural increase also declined during the same period, from 21.9 per 1,000 to 12.3, as did the total fertility rate, from 4.74 children per woman to 2.36.

5. After reaching an all-time low in 1984, China's rate of natural increase started to climb. The reasons for this recent population upsurge are well known. First, during the turbulent years of the Great Proletarian Cultural Revolution (1966-1976), the country's family planning programme virtually collapsed, and about 259 million babies were born during the decade. These baby boomers have now entered, or are about to enter, their reproductive years and are likely to generate, at least until 1995, a second-generation baby boom. Second, the average age at first marriage in China has declined from 23.5 to 22.2 years*, mainly because of the passage of the Marriage Law in 1981. Before the law was passed, Chinese authorities had advocated that the sum of a couple's age at marriage should be at least 50. However, the Marriage Law set the minimum marriage age at 20 for women and 22 for men. As a result, couples have been getting married at an earlier age, creating a larger cohort of reproductive couples.

6. Finally, while China's family planning programme has been effective in urban areas, it has been less so in the countryside. Indeed, the rural population, which accounted for 77.2 per cent of the country's population in 1988, has been growing at a rate higher than that of the city. The success of economic reforms in rural areas has meant prosperity for farmers, who now want more children. Moreover, the dismantling of the commune system has resulted in the deterioration of rural health services, and, therefore, of family planning efforts at the grass-roots level.

7. Chinese authorities have recently acknowledged that the country's population may reach 1.27 billion by the year 2000 -- 70 million more than had been projected. It is within this context that China is seeking UNFPA assistance for a third country programme.

III. REVIEW OF UNFPA AND OTHER ASSISTANCE TO DATE

8. UNFPA assistance to China started in May 1979 with the signing of a memorandum of understanding between the two parties. One year later, at its twenty-seventh session in June 1980, the Governing Council approved UNFPA's first country programme in China in the amount of \$50 million for the period 1980-1983. The programme, which was extended to 1984 due to budgetary constraints, made a significant contribution towards the success of China's population programme. The Council approved the Fund's second country programme in June 1984, at its thirty-first session. The five-year programme (1985-1989), also in the amount of \$50 million, was based on the recommendations of a UNFPA needs assessment mission undertaken in 1983.

9. The monitoring and evaluation of the various components of the UNFPA programme have been particularly notable. Independent sectoral reviews and evaluations were conducted in the areas of contraceptive production (1984), population education (1985) and information, education and communication (1986); moreover the projects in policy formulation and evaluation were included

*Communique of the State Statistical Bureau of the People's Republic of China on major figures of 1987 nation-wide one-percent population sample.

in a comparative evaluation carried out in 1987. These were undertaken in addition to regular annual tripartite project and country programme reviews and a mid-cycle review. Major features of past UNFPA assistance are reviewed below.

Maternal and child health and family planning

10. More than 60 per cent of UNFPA assistance to China since 1979 has been devoted to MCH/FP. Owing to the magnitude of need for such services vis-a-vis the assistance available, the Fund has had to concentrate its MCH activities in 18 pilot health institutions -- 9 MCH/FP hospitals at the provincial/municipal level and 9 health stations at the county/district level. Maternal and infant mortality and morbidity have been reduced in the areas covered by the 18 pilot hospitals and health stations through a variety of interventions, including: identification of pregnant women at high risk; promotion of pregnancy monitoring at home; encouragement of aseptic techniques of child birth; registration and monitoring of all pregnant women within the first trimester of pregnancy; and provision of intensive training for nurses and traditional birth attendants in perinatal care. In pilot areas, infant mortality rates have been reduced to between 12 and 20 per 1,000, as against the national average of 32 per 1,000 for the period 1980-1985. UNFPA assistance has also been used to strengthen the MCH/FP curricula at three medical colleges and to train MCH/FP professionals such as doctors, nurses and clinicians at a national training centre supported by UNFPA.

11. Contraceptive production. A major activity supported by UNFPA is the production of modern, safe and effective contraceptives. Each year, UNFPA-assisted factories manufacture some 4.5 million Copper T 220C intrauterine devices (IUDs); oral pills sufficient to protect 12.7 million women; 10 million suppositories and 100 million spermicidal tablets; 350 million individually lubricated and packed condoms; 32.5 million ampoules of long-acting (monthly) injectable contraceptives; and bulk steroids sufficient to produce oral contraceptives to protect 20 million couples. According to the Program for the Introduction and Adaptation of Contraceptive Technology (PIACT), which served as the executing agency for these projects, the estimated cost for an equivalent amount of contraceptive products would have been \$37 million for 1987 alone, had they been purchased on the international market. By contrast, total UNFPA support to contraceptive production in China over 10 years was \$21.8 million. Far more important than the financial savings, however, UNFPA assistance has helped to introduce modern and more effective contraceptives into China, improve manufacturing practices and establish standards for quality control. UNFPA-assisted projects have thus helped to prevent millions of unwanted pregnancies in China by making available safe and more effective contraceptives to replace less effective ones such as the stainless-steel ring IUD which, according to Chinese sources, has a failure rate of more than 10 per cent.

12. Contraceptive research. UNFPA's assistance has enabled four institutes (in Beijing, Tianjin, Chengdu and Guangzhou) to design and conduct basic research and clinical trials on contraceptives, as well as large-scale epidemiological studies on contraceptives. Technical assistance to these institutes has been provided by the WHO Special Programme of Research, Development and Research

Training in Human Reproduction (WHO/HRP). Since 1980, UNFPA support in this area in the amount of \$9.6 million has helped: (a) to establish a basis of comparison (i) between infertile and fertile Chinese men, (ii) between menstrual blood loss volume and uterine sizes among normal Chinese women, and (iii) for measuring effectiveness of various contraceptives among Chinese women; (b) to evaluate the effectiveness and safety of contraceptives through clinical trials; (c) to study the relationship between vasectomy and cardio-vascular diseases and between blood loss and the use of certain types of IUDs; and (d) to further contraceptive research. UNFPA assistance also enabled Chinese scientists to conduct studies on contraceptive efficacy and on the relationship between the use of hormonal contraception and the incidence of cardio-vascular diseases in women. UNFPA support has been used to procure analytical laboratory instruments, provide training abroad and in in-country workshops, hire high-level consultants, and facilitate collaboration with the international research community. UNFPA projects have also helped strengthen research management and statistical analytical capabilities.

13. Publicity and communication for family planning. To encourage family planning among potential acceptors and enhance understanding of family planning methods and services among acceptors, UNFPA provided assistance for the introduction of a modern, professional publicity and communication network. The network is based in Beijing, with sub-centres in Chengdu and Shanghai. UNDP's Asia and Pacific Programme for Development Training and Communication Planning (DTCP) has executed projects in this area. UNFPA assistance was used to purchase modern audio-visual equipment, provide advanced training for national staff, procure multi-purpose mobile publicity vans and expand facilities for producing IEC materials for family planning motivation. The expanded IEC production facilities have enabled Chinese authorities to improve the information base on population and make population facts more readily available. This has had the added advantage of encouraging voluntarism. Although UNFPA's support for family planning IEC has been quite useful, a recent evaluation carried out jointly by UNFPA and Chinese authorities has indicated an over-emphasis on the mass media. As a result, future activities in family planning IEC will be primarily aimed at the grass-roots level in rural areas.

14. Family planning programme co-ordination. China has set up a network for family planning service delivery. Co-ordinating the various elements of this network requires an effective management information system (MIS). UNFPA has provided support for the development of a computer-based MIS, which is being used to gather and analyze family planning service statistics (such as patterns and preference of contraceptive use) that are fed back to the Department of Planning and Statistics in the State Family Planning Commission. UNFPA assistance has also helped strengthen project and programme evaluation by arranging training locally and abroad for Chinese population specialists. With UNFPA's support, the training centre for family planning administrators and statisticians in Nanjing has been providing long- and short-term courses for family planning service statisticians and administrators, each year graduating about 180 students at the masters degree level.

Population information, education and communication

15. An important aspect of UNFPA's IEC approach in China has been the focus on reaching some 47 million secondary-school students with information and materials on the linkage between population and economic development, the effects and impact of population on the environment, sex education, and the implications of population factors for future jobs, careers and life styles. Population education has been extended to peasant schools and to agricultural extension training centres in the countryside. In the past 10 years, \$5.5 million, or 5.2 per cent of UNFPA resources, was allocated to the activities in this sector. An evaluation of projects in this area pointed to the need to expand IEC activities beyond the formal school system to reach youth organizations and young workers.

Basic data collection and analysis

16. A significant portion of UNFPA's early assistance to China was concentrated on basic data collection and analysis. UNFPA supported the conduct of the first modern census of China in 1982, which indicated that the country's population had reached 1.008 billion. Assistance totaling \$13.6 million was used to recruit experts to help plan the census, train staff, mount the census publicity campaign and conduct the actual census enumeration. The country's data processing capability was greatly enhanced by the provision of 21 IBM computers, set up in the State Economic Information Office in Beijing and in each of its 20 provincial offices. The State Statistical Bureau (SSB) was strengthened through UNFPA assistance, which was used to set up statistical training institutes and procure data conversion systems and archival equipment to store census data.

17. UNFPA supported the one per cent sample survey of China's population undertaken in July 1987, five years after the conduct of the first modern census. Based on the survey findings, Chinese authorities estimated the total population at 1.07233 billion, a 64.15 million (6.36 per cent) increase over the 1982 census. The average annual increment of population was 12.83 million. The estimated birth rate for 1987 was 21.2 per 1,000, the death rate 6.4 per 1,000, and the natural growth rate 14.8 per 1,000. The median age of the country's population rose from 22.9 to 24.2 years during the same five-year period. The proportion of people aged between 15 and 64 increased from 61.7 to 65.9 per cent, while the proportion of minority nationals increased from 6.7 to 8.0 per cent of the total.*

18. In response to the Government's request to further assist in the preparations for the country's second modern census, scheduled for July 1990, UNFPA provided funds for computers to be installed at 327 prefectural census offices. The Government, for its part, assumed full responsibility for upgrading the data processing equipment at all other administrative levels: national, provincial and county. The strengthening of data processing capabilities at these levels should enable Chinese specialists to avoid the long delays of the past in processing and analyzing census data caused by the need to physically bring all data to Beijing.

*Communique of the State Statistical Bureau of the People's Republic of China on major figures of 1987 nation-wide one-percent population sample.

Population dynamics

19. Demographic research. China's relative isolation from international social science research for almost three decades after 1949 created a serious shortage of skilled demographers and statisticians. UNFPA has assisted in the training of these professionals by supporting the establishment of 22 population research and training institutes in universities and colleges and of four branches of the Chinese Academy of Social Sciences (CASS). In less than 10 years, nearly a hundred Chinese fellows have been sent abroad for graduate studies and specialized courses in demography and related disciplines. More than half of these fellows have now returned and have assumed key positions in teaching, research and policy studies. Four demographic and training institutes now offer doctorate degrees, 13 offer masters degrees and 2 offer bachelor degrees in population studies. The institutes also conduct research projects on topics such as fertility, mortality, migration, urbanization, aging and other population subjects. More than a dozen professional population journals are now regularly published in China, and monographs have been published both in Chinese and English on the demographic situation of each of China's provinces, major cities and autonomous regions. UNFPA's assistance in this area, therefore, has not only improved the quality and quantity of population experts in China but has also accelerated Chinese demographers' access to the international network of activities in population research, training and publications.

20. UNFPA has supported institution-building efforts by providing funds for equipment, fellowships, training and technical assistance to research and policy-making institutions involved in population and development. For example, UNFPA has assisted the Institute of Planned Economy, a research arm of the State Planning Commission, through inputs in human resources development and the provision of computers, books and research materials. The CASS Population Research Institute has also received UNFPA support aimed at improving its capacity to carry out research on migration, urbanization and the aging of China's population.

Special programme interests

21. The UNFPA-assisted programme in China has paid special attention to two groups in particular -- women and the aged.

22. Women. China is firmly committed to improving the well-being of women. This is perhaps best exemplified in the slogan "women hold up half the sky". Chinese leaders stress, however, that the condition and the status of women in China both need improving. UNFPA has thus worked closely with the Government to support special projects designed to help women increase their income and improve their business management and production skills, and to make appropriate social services more readily available. UNFPA assistance has been used to establish revolving funds in enterprises in China's northwest provinces in order to help these enterprises start income-generating activities for women. The Fund has also provided support for management development centres for women in the form of equipment, consultancies and training.

23. Aging. The dramatic decrease in recent years in China's population growth rate has brought about a corresponding rapid increase in the proportion of aged people. Indeed, according to Chinese projections, by the year 2000 more than 10 per cent of China's population will be 60 years old and above. UNFPA has provided assistance to the Chinese National Committee on Aging (CNCA) to conduct policy studies on such aspects of aging as income security, health care, continuing education, the role of the family and the community in caring for the elderly and the financial implications of an aging society. CNCA has also conducted pilot studies examining the formulation and implementation of these policies at the local government level. A comparative study conducted by CNCA of programmes for the aged in China and Japan has enabled Chinese policy-makers to learn from the experiences of another society with similar cultural attitudes towards aging.

Other external assistance

24. Japan has been the largest bilateral donor in China in the population sector, providing more than \$9 million in assistance between 1982 and 1987 through the Japan International Co-operation Agency (JICA). The primary beneficiaries of this support were the State Family Planning Commission and the Ministry of Public Health. A small grant for an integrated project linking parasite control and primary health care with family planning, originally funded by UNFPA, has been executed by the Japanese Organization for International Co-operation in Family Planning (JOICFP).

25. Since 1979, WHO/HRP has provided \$10 million to assist four family planning research institutes in developing scientific research expertise to carry out contraceptive research and in establishing good laboratory facilities and capabilities. The work of these institutes has complemented that of the other four institutes funded by UNFPA. In recent years, WHO/HRP assistance has been extended through training programmes to strengthen Chinese capabilities in epidemiological research, statistical and computer analyses and research management.

26. The Swedish International Development Agency (SIL) has been supporting an MIS project in the State Family Planning Commission since 1986. This \$1.3 million project implemented by Statistics Sweden provides consultants to the MIS unit of the Commission as well as training programmes in data analysis. A small pilot project for the city of Harbin to strengthen programme monitoring has been funded through UNFPA's regional programme and executed by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP). Both SIDA and ESCAP have been collaborating closely with UNFPA and other United Nations organizations in the area of family planning service statistics.

27. Fertility research has received support from the Canadian International Development Research Centre (IDRC), the Danish International Development Agency (DANIDA) and the United Nations, primarily for fertility surveys in China. IDRC has also given a \$300,000 (Canadian) grant to eight population research institutes to support a study of rural-urban migration.

28. Fellowships in a wide variety of areas and disciplines have been provided by The Population Council, the Canadian International Development Agency (CIDA), the Australian International Development Assistance Bureau (AIDAB) and The Rockefeller Foundation. The Population Council, through funds from The Rockefeller Foundation and UNFPA, has provided technical assistance for the introduction of NORPLANT subdermal implant contraceptives. The Rockefeller Foundation has also supported basic research in biochemistry.

29. It is important to note at this juncture, however, that while China's population programme has benefited substantially from external assistance, over 98 per cent of programme resources in China come from the Government.

IV. FINDINGS OF THE COUNTRY EVALUATION

30. In order to assess the strengths and weaknesses of the Fund's programme since its inception in 1979, UNFPA, in collaboration with the Chinese Government, conducted an intensive country programme evaluation in July-August 1988. On the basis of the findings of that evaluation, special task forces were organized jointly by the Government and UNFPA to identify future population needs in China and to formulate proposals for the third cycle of UNFPA assistance (1990-1994).

31. The evaluation pointed out that family planning had been highly successful in the more developed coastal areas and cities, where efforts had been concentrated, but lagged behind in the countryside. Information and education activities in support of family planning also seemed to favour coastal areas and cities. Such efforts relied too heavily on mass media, thereby neglecting the grass-roots communication approach more suited to rural areas. The evaluation found that locally-developed and manufactured contraceptives were not as effective as those marketed internationally. This resulted in a higher than expected incidence of unwanted pregnancies, which in turn underscored the need to introduce and manufacture more effective contraceptives. Co-ordination between the State Family Planning Commission and the Ministry of Public Health, both of which have had responsibility for family planning activities, has been sub-optimal. In the area of statistics and demography, the evaluation found that while Chinese efforts have been very effective in data collection through censuses and surveys, data analysis tended to be weak and a great deal of information remained un-analysed long after it had been painstakingly gathered.

32. Based on the findings of the country programme evaluation, the Government and UNFPA made the following joint recommendations: (a) contraceptive production should be given highest priority in the third cycle programme; (b) MCH/FP services should be integrated functionally and institutionally to help improve the situation in China's remote interior regions and rural areas; (c) special projects aimed at improving the status of women should be developed, especially in frontier areas; (d) IEC efforts and population education should be targeted to people in rural areas, with grass-roots communication being given more emphasis; (e) support for research, both in contraceptives and the social science aspects of family planning, should be continued; and (f) efforts to improve analysis and to train professionals in the field of statistical analysis should be intensified.

V. PROPOSED PROGRAMME, 1990-1994

33. The proposed UNFPA assistance to China for the 1990-1994 period seeks to build upon the successes of the past two programmes. The new programme represents a departure from the first and second programmes, however, in that it concentrates its MCH/FP activities at the grass-roots level (targeting some 300 counties in poor and remote areas) and stresses the production of effective, safe contraceptive devices. The new programme would also provide substantial support for the development of special projects to enhance the condition and status of women. The proposed activities have been designed to complement government efforts and to help China achieve its population and development objectives. A portion of the assistance would be provided in 1989 to support pre-project activities prior to the start of the new programme.

Maternal and child health and family planning

34. The proposed assistance to this sector would focus on improving maternal and child health and family planning services in poor and remote areas of the country. The programme would also seek to improve the quality of locally-produced contraceptives in order to make safe, effective contraceptives more readily available to Chinese women. Proposed assistance to this sector is \$29.5 million.

35. Strengthening maternal and child health and family planning services at the grass-roots level. Although the infant mortality rate for the country as a whole was estimated at 32 per 1,000 live births for the period 1980-1985, there are still approximately 300 counties in poor and remote areas of China where the rate is estimated at more than 50 per 1,000. As part of the effort to lower the infant mortality rate and improve the health of mothers and children in these areas, UNFPA and the United Nations Children's Fund (UNICEF) plan to launch a joint project aimed at integrating family planning with MCH services. The project would integrate family planning information and services with perinatal care, immunization, monitoring of children's development, and prevention and control of early childhood diseases. The project would seek to train community-based MCH/FP workers in the 300 counties in basic MCH/FP service skills and to provide clinics in these counties with basic life-saving equipment, essential midwifery kits, motor vehicles and information and education materials. International and national consultants would serve as trainers and provide technical assistance. WHO in particular would provide technical expertise for such activities as epidemiological surveys and overseas training. Outside technical assistance would also be required to develop an appropriate IEC approach for the inhabitants in the more remote areas of China. Proposed assistance for the project is \$9.5 million, of which \$500,000 is earmarked for IEC activities.

36. Contraceptive production. The demand for contraceptives in China is enormous. Indeed, approximately 73 per cent of the country's 200-plus million married women of reproductive age use some form of contraception. China is understandably proud of the fact that it is self-sufficient in the production

of contraceptive supplies. However, there is still too great a reliance on ineffective contraceptive devices such as the stainless steel ring IUD (currently thought to be used by some 51 million Chinese women), which, according to Chinese estimates, has a failure rate of more than 10 per cent. The proposed UNFPA assistance would seek to enhance the capacity of the Chinese pharmaceutical industry to produce modern, safe and effective contraceptives, which would in turn enable the Chinese to phase out the stainless steel ring IUD and other ineffective contraceptives. By the end of the project in 1994, it is expected that the State Pharmaceutical Administration would be manufacturing about 3.5 million sets of NORPLANT subdermal contraceptive implants per year at the Tianjin Lisheng Pharmaceutical Factory, about 3 million Copper T 220C IUDs per year at the Tianjin and Wuxi plants and about 1.5 million units of other effective IUDs. The Ministry of Chemical Industry would also be expected to have the capacity to produce more than 300 million high-quality condoms per year at the Tianjin and Guangzhou plants. The Fund proposes assistance in the amount of \$12 million for contraceptive production. PATH would be one of the executing agencies.

37. Maternal and child health/family planning training centres. UNFPA would provide a total of \$1.4 million of assistance to the training centre for MCH/FP professionals in Chengdu to strengthen its training curricula and to the Nanjing training centre for family planning administrators and statisticians to strengthen the Centre's network to provide assistance to its sub-centres. The Western Pacific Regional Office of WHO would assist UNFPA by providing technical assistance.

38. Information, education and communication to support family planning. In this proposed project, UNFPA assistance of \$2.1 million would be devoted to disseminating family planning information at the grass-roots level. The modern information and education capabilities developed in the previous two cycles of UNFPA assistance would be used to supplement training efforts in support of village-level family planning workers. At the same time, a special effort would be made to train service providers at village- and county-level clinics both to improve their counselling techniques and to help them identify problems related to contraceptives and their use. Service providers so trained would be expected to recognize and solve more elementary problems and to refer more complex problems to higher level professionals. The project's primary objectives would be: (a) to develop and implement a nation-wide IEC strategy in support of family planning, with emphasis on grass-roots level communication; (b) to extend the programme to train trainers, utilizing existing IEC capabilities to support village- and county-level family planning workers; (c) to procure, distribute and use appropriate types of equipment necessary to support project activities; (d) to develop low-cost publicity materials; and (e) to establish grass-roots communication as the main method used in family planning communication. Technical assistance would be provided by appropriate international organizations within and outside the United Nations system.

39. Contraceptive research. China's continuing adherence to the principle of self-reliance in contraceptive production underscores the importance of UNFPA assistance to this sector. Since 1980, UNFPA, with the technical assistance of WHO/HRP, has provided support to four family planning research institutes. In

the proposed programme, UNFPA would continue to support basic and clinical research at three institutes (in Beijing, Tianjin and Changdu), providing expendable and non-expendable equipment, books, journals and expert technical assistance. UNFPA would also support the conduct of social and behavioural studies on contraceptive usage, reproductive epidemiological studies, and studies on the psycho-social aspects of contraceptive use. Proposed assistance to contraceptive research would be \$4.5 million. WHO/HRP would serve as an executing agency.

Information, education and communication

40. Population education. The population education efforts started with UNFPA support in the first two programmes would be re-oriented to focus on rural areas. During this third programming cycle, UNFPA's population education activities would be based in 900 middle schools and 600 peasant schools at the county level. By the end of the project in 1994, such activities would be part of the curricula of most middle schools and peasant schools throughout the country, eventually reaching 93,000 middle schools. UNFPA assistance in the amount of \$3 million would be used to introduce innovations in the school curricula, develop textbooks and other teaching materials in sex education, offer courses in personal hygiene, pioneer the use of information and education approaches based on indigenous communication methods, and develop pedagogical approaches combining classroom work with community service. The United Nations Educational, Scientific and Cultural Organization (UNESCO) would provide technical assistance.

41. Population education for diverse cultural groups. According to the Chinese State Statistical Bureau approximately 8.0 per cent of China's population in 1987 were non-Han Chinese belonging to some 55 different ethnic groups. Most of the diverse cultural groups live in frontier and mountainous areas where living conditions are difficult. Leaders of these groups have voiced a desire to have access to population education. UNFPA assistance in the third programming cycle would thus be used to develop population education materials for non-Mandarin-speaking ethnic minorities. Assistance in the amount of \$500,000 would be provided for the development of educational materials suitable for specific groups, the purchase of printing and audio-visual equipment, training of local writers, designers and editors in the basic concepts of population education and the production of educational materials that recognize and respect the cultural traditions and belief systems of the different cultural groups. UNESCO would provide technical assistance.

42. Population information. In previous programme cycles, UNFPA provided support to the China Population Information Centre (CPIC) to assist it in its task of collecting, storing, disseminating and publishing population information both within China and abroad. UNFPA would continue its assistance to CPIC in the third cycle. Now that CPIC and its seven sub-centres have the computer hardware necessary to carry out their information work, the proposed assistance, in the amount of \$700,000, would focus on training of staff and the production of population information materials useful to researchers and family planning workers. The project would also provide support to encourage Chinese information specialists to actively participate in the global population information system. Technical assistance would be provided by ESCAP.

Population dynamics

43. In China, a number of agencies such as the State Planning Commission (SPC), the Rural Development Centre and the State Family Planning Commission are entrusted with various aspects of the country's population and development policy. The research capabilities of such agencies would be strengthened in the third programming cycle primarily through fellowships and training opportunities for demographers and other social scientists, technical assistance from outside consultants, and support for demographic surveys. Assistance in the amount of \$1 million would be provided. The United Nations Department of Technical Co-operation for Development (UNDTCD) would provide technical assistance.

44. Demographic training and research. Since 1980, UNFPA has provided assistance to 22 population research and training institutes throughout China at the university level, as well as to four research institutes of the Chinese Academy of Social Sciences, to the National Demographic Training and Research Institute at People's University, and to the State Statistical Bureau. This assistance, in the form of fellowships and training grants, has helped to increase significantly the number of demographers and population scientists in China. It is expected that by the end of the proposed project 12 of the 22 institutes would have developed into "centres of excellence", playing key roles in carrying out policy-oriented studies on population and development. Among the topics examined by these centres of excellence would be, inter alia, the demographic impact of China's population programmes; the effects and impact of the "opening up" of China's economy to the outside world; China's migration and urbanization policies; ways and means of providing for China's aged population; and the changing nature of the family in Chinese society. Such studies would be carried out by networks of researchers located in various parts of China. Results of these studies would be disseminated to policy-makers and administrators as an input to development policy in the country. UNDTCD would provide the technical assistance for this \$7.4 million project.

Women, population and development

45. While the status of women in China has greatly improved since 1949, there are still many areas where women's status needs further improvement. This need is reflected in the UNFPA proposed programme, which focuses on, among other things, the development of special projects with direct impact on improving women's status, such as income-generating projects, social services projects and community development efforts. Revolving funds would be set up from which enterprises directly benefiting women could obtain no-interest loans to be used for investment purposes. Profits from these investments would then be used to finance activities such as health clinics for women, nurseries and kindergartens at the work site, and recreational centres. The repaid principal would be re-invested in other enterprises. Complementing these activities would be support for training institutions that seek to improve the capabilities of women in enterprise management, financial administration and other professional skills. Support for literacy campaigns, community organization, inter-personal communication skills and use of mass media would

be provided also. In accordance with standard UNFPA practice, during the third programming cycle, all UNFPA-assisted projects in China would be evaluated in terms of their effect and impact on the status and role of women in development. Proposed assistance would be \$7.8 million. Technical assistance would be provided by appropriate international organizations within and outside the United Nations system.

Assistance programme on aging

46. By the year 2000, it is projected that 90.1 million Chinese, or 7.18 per cent of the country's population, would be 65 years old and above. The rapid decline in China's birth rate is primarily responsible for the corresponding aging of the population. Although Chinese authorities are aware of the implications of a rapidly aging society, little is being done to anticipate problems in this area. As a result, UNFPA proposes assistance in the amount of \$1.7 million to support research studies that would enable the Chinese Government to establish policies on income security and health services for the elderly. Assistance would also be provided to conduct studies on such issues as the recreational and educational needs of old people, and the positive role of the family and the community in enhancing the lives of the elderly. On the basis of the findings of these studies, UNFPA would also support pilot demonstration projects, within the established UNFPA mandate for this sector.

Programme management and co-ordination

47. The programme would be subject to monitoring and evaluation in accordance with the UNFPA guidelines. All projects would submit progress reports and conduct tripartite reviews and internal evaluations. Each year, the Government and UNFPA would conduct a joint country programme review, and on-site monitoring visits would be made by representatives of UNFPA, the executing agencies and the Government, as necessary. An in-depth evaluation would be made of selected projects within the five-year programme period. UNFPA would work closely, through its Country Director and field office staff, with appropriate government institutions and organizations to ensure maximum accountability of the UNFPA programme.

Financial summary

48. As indicated in paragraph 1, UNFPA proposes to support a programme in the amount of \$57 million, of which \$5.4 million is to be held in reserve for new proposals that would be developed within the framework of the proposed programme. UNFPA assistance to the Government of the People's Republic of China for the five-year period 1990-1994, by project area within each work-plan category, is as follows:

	UN7PA <u>regular resources</u> \$
<u>Maternal and child health and family planning</u>	\$ 29,500,000
Contraceptive production (12,000,000)	
Maternal & child health (9,800,000)	
Contraceptive research (4,500,000)	
MCH/FP training (3,200,000)	
Information, education and communication	4,200,000
Population dynamics	8,400,000
Women, population and development	7,800,000
Assistance programme on aging	1,700,000
Programme reserve	<u>5,400,000</u>
TOTAL	\$ 57,000,000

VI. RECOMMENDATION

1. The Executive Director recommends that the Governing Council:

(a) Approve the assistance to the People's Republic of China in the amount of \$57 million for the five-year period 1990-1994;

(b) Authorize the Executive Director to allocate the funds and to make the appropriate arrangements with the Government of the People's Republic of China and with the executing agencies.

UNFPA COUNTRY PROGRAMME IN CHINA

Channels of Allocations in 1992-1995

TOTAL	30,500,405	Percentage
ESCAP	91,695	0.30%
ILO	423,005	1.39%
UNDP/OPS	848,624	2.78%
UNDESD	3,179,420	10.42%
UNESCO	2,544,199	8.34%
UNFPA	2,419,188	7.93%
UNICEF	5,928,903	19.44%
WHO	3,564,831	11.69%
FAO	3,461,923	11.35%
NGOs		
PATH/PIACT	7,757,840	25.44%
Population Council	19,986	0.07%
Flinders University	260,791	0.86%
	30,500,405	100.00%

CHINA

United Nations Population FundCPR/85/P01

- Strengthening of maternal, perinatal and family planning services at the provincial and municipal levels (initiated in 1985). Executing agency: WHO. To strengthen maternal, perinatal and family planning services through 1) improving the quality of care of pregnant mothers and the new-born; 2) developing and implementing standards and criteria for selecting high risk cases for special care at all levels of care; and 3) developing clinical and action research capabilities of staff in perinatal care. Total project budget through 1991: \$2,737,746.

CPR/85/P08

- Strengthening of national training centre for MCH/FP professionals in Chengdu (initiated in 1985). Executing agency: WHO. To improve the quality of family planning services by upgrading the quality and technical skills of family planning service providers; strengthening and improving technical management of family planning work; and increasing the number of personnel who will provide training at the lower level. Total project budget through 1991: \$672,371.

CPR/85/P24

- Assistance for the manufacture of vaginal suppositories and tablet production (initiated in 1985). Executing agency: PIACT. To expand the range of contraceptive products available in China by increasing foaming tablet and suppository production. Total project budget through 1991: \$1,270,392.

CPR/85/P25

- Assistance for the production, testing and packaging of condoms (initiated in 1985). Executing agency: PIACT. To manufacture condoms and improve product quality by introducing modern testing equipment; and to enhance research capabilities of the Kumming Research Institute of Latex. Total project budget through 1991: \$2,695,768.

CPR/85/P36

- Strengthening of China Population Information Centre (initiated in 1985). Executing agency: ESCAP. To strengthen the activities of the Centre for collecting, analysing, publishing, disseminating and exchanging population and family planning information within and outside the country. Total project budget through 1991: \$722,357.

CPR/85/P58

- Programme support costs for contraceptive production projects (initiated in 1985). Executing agency: PIACT. To support the execution of eight contraceptive production-related projects for the Second Cycle of the China programme. Total project budget through 1991: \$1,016,581.

CPR/88/P50

- Multi-sectoral support to UNFPA country programme (initiated in 1988). Executing agency: UNFPA. To support selected population and development activities at the field level, such as, for example, project formulation, preparations for 1990 census operations, attendance at seminars, etc. Total project budget through 1992: \$186,136.

CPR/88/P60

- Project formulation mission (initiated in 1988). Executing agency: UNFPA. Total project budget through 1992: \$485,867.

CPR/89/P02

- Improving the status of rural women in Xinjiang through income-generating activities and MCH/FP (initiated in 1989). Executing agency: FAO. To provide loans from a revolving fund to women's groups in five villages to help them strengthen their economic status and to organize training and services for family welfare and MCH/FP. Total project budget through 1993: \$250,000.

CPR/89/P03

- Improving the status of rural women through income-generating activities and MCH/FP (initiated in 1989). Executing agencies: FAO/UNFPA. To improve the socio-economic conditions of women in Gansu, Qinghai and Ningxia Hui through the provision of income-generating activities and training on production and business skills, functional literacy and MCH/FP motivation. Total project budget through 1992: FAO, \$855,000; UNFPA, \$5,453.

CPR/89/P07

- Further strengthening of the State Statistical Bureau (initiated in 1989). Executing agency: United Nations. To strengthen the data processing capability of the State Statistical Bureau through provision of equipment, training, and other means. Total project budget through 1993: \$3,050,000.

CPR/89/P09

- Support to Nanjing College for Family Planning Administration (initiated in 1989). Executing agency: WHO. To strengthen further the management content of training programmes at the Training Centre of the College. Total project budget through 1991: \$624,273.

CPR/89/P44

- Establishment of training centres for population statistics and analysis and for data processing (initiated in 1989). Executing agency: United Nations. To train an adequate number of qualified statistical and data processing staff who will carry out decennial censuses and sample surveys, including their processing and analysis. Total project budget through 199 : \$506,227.

CPR/89/P47

- Support for demographic training and research programmes at university population centres (initiated in 1989). Executing agency: United Nations. To establish a network of demographic centres for training and research programmes. Total project budget through 1992: \$1,610,746.

CPR/89/P60

- Maternal and child health and family planning adviser (initiated in 1990). Executing agency: UNFPA. To sponsor a consultant for the technical aspects of a joint UNICEF/UNFPA project to strengthen MCH/FP at the grassroots level. Total project budget through 1994: \$575,000.

CPR/90/P01

- Strengthening maternal and child health/family planning services at the grassroots level (initiated in 1990). Executing agencies: UNICEF/WHO/PIACT. To improve the quality of MCH/FP care and to increase its coverage in the 300 poorest counties. Total project budget through 1994: WHO, \$142,900; UNICEF, \$8,862,900; PIACT, \$500,000.

CPR/90/P05

- Support to national demographic training and academic exchange centre (initiated in 1990). Executing agency: United Nations. To continue support to the People's University of China in Beijing through provision of training and exchange fellowships. Total project budget through 1994: \$200,000.

CPR/90/P06

- Policy-oriented demographic research (initiated in 1990). Executing agency: United Nations. To support research at the Chinese Academy of Social Science, including on the evolution of the Chinese family and women in development. Total project budget through 1994: \$308,699.

CPR/90/P07

- Population programme and management research (initiated in 1990). Executing agency: United Nations. To strengthen the research capabilities of staff at the State Family Planning Commission. Total project budget through 1994: \$397,170.

CPR/90/P08

- Population policies and development planning (initiated in 1990). Executing agency: United Nations. To support the Economic Institute of the Chinese Planning Commission and seven provincial Planning Commissions, including staff development and policy research. Total project budget through 1994: \$305,011.

CPR/90/P16

- China population information network (POPIN) (initiated in 1990). Executing agencies: ESCAP/UNFPA. To strengthen the China Population Information and Research Centre to collect, analyze and disseminate population research and programme data, and to create a database for use in population policy formulation. POPIN centres were established in Shanghai, Tienjin, Shaanxi, Liaoning, Sichuan, and Guangdong. Total project budget through 1994: ESCAP, \$250,482; UNFPA, \$487,494.

CPR/90/P17

- Strengthening rural grassroots family planning publicity and education (initiated in 1990). Executing agency: UNDP. To increase family planning publicity and education efforts at the county, township and village levels in rural areas. Total project budget through 1994: \$2,019,339.

CPR/90/P24

- Extension of NORPLANT introduction (initiated in 1990). Executing agency: The Population Council. To continue assistance to the introduction of the NORPLANT subdermal implant into the national family planning programme. Total project budget through 1993: \$381,486.

CPR/90/P25

- Strengthening the capability for research in human reproduction and family planning (initiated in 1990). Executing agency: WHO. To further strengthen the capabilities of the research institutes in Beijing, Chengdu and Tianjin. Total project budget through 1994: \$4,000,000.

CPR/90/P27

- Family Planning Administrators Training Centre in Nanjing (initiated in 1990). Executing agency: WHO. To continue support to the development of human resources by improving and

upgrading the quality of training and training materials at the Nanjing Training Centre and its network of 14 sub-centres. Total project budget through 1994: \$498,936.

CPR/90/P29

- Improving the status of rural women in Hainan through income-generating activities and MCH/FP (initiated in 1990). Executing agency: ILO. To support training of women's groups in income-generating activities, including animal husbandry and aqua-culture. Total project budget through 1992: \$247,356.

CPR/90/P32

- Support to the Department of International Relations, Ministry of Foreign Economic Relations and Trade (DIR/MOFERT) in programme management and co-ordination (initiated in 1990). Executing agency: UNFPA. To support programme management within DIR/MOFERT through training and planning. Total project budget through 1991: \$31,598.

CPR/91/P04

- Support to demographic research and training (initiated in 1991). Executing agency: United Nations. To strengthen and consolidate research and training initiatives in demography at 22 population institutes in Chinese universities. Total project budget through 1994: \$2,009,900.

CPR/91/P11

- Copper T 220C production (initiated in 1991). Executing agency: Program for Appropriate Technology in Health. To expand the Copper T 220C production capacity at the Tianjin Medical Instrument Factory. Total project budget through 1994: \$2,054,093.

CPR/91/P12

- Improving condom quality (initiated in 1991). Executing agency: Program for Appropriate Technology in Health. To assist the Guilin and Shanghai condom factories as well as the Zhuzhou Latex Research Institute in assuring condom quality improvements. Total project budget through 1994: \$3,106,875.

CPR/91/P13

- Production of Copper T 380A in Shanghai (initiated in 1991). Executing agency: Program for Appropriate Technology in Health. To establish Copper T 380A production capability in China at the Shanghai Medical Suture Needle Factory. Total project budget through 1994: \$2,077,093.

CPR/91/P14

- Production of Copper T 380A in Siping (initiated in 1991). Executing agency: Program for Appropriate Technology in Health. To establish Copper T 380A production capability in China at the Siping Medical Instrument and Apparatus Factory. Total project budget through 1994: \$1,746,017.

CPR/91/P15

- Nonoxynol-9 production (initiated in 1991). Executing agency: Program for Appropriate Technology in Health. To establish Nonoxynol-9 production capability at the China Pharmaceutical University Factory in Nanjing. Total project budget through 1994: \$616,208.

CPR/91/P19

- Population education in secondary school (phase III) (initiated in 1991). Executing agency: UNESCO. To assist the State Education Commission in expanding population education in rural

and remote areas as well as among minority populations. Total project budget through 1994: \$1,955,785.

CPR/91/P20

- Expansion of population education in peasant schools (initiated in 1991). Executing agency: UNESCO. To extend population education to peasant schools and their surrounding communities in 25 provinces. Total project budget through 1994: \$1,012,690.

CPR/91/P22

- Research on the aged towards policy formulation (initiated in 1991). Executing agencies: UNFPA/UN International Institute on Aging (INIA). To conduct research on the implications of the aging population on the support systems for the elderly in both urban and rural areas in order to recommend action-oriented policies. Total project budget through 1994: \$586,233.

CPR/91/P23

- Multidimensional longitudinal study of aging in Beijing. Executing agency: Centre for Aging Studies (Australia). To conduct an in-depth longitudinal study in the Beijing area to measure current and changing patterns of family and community support for the elderly, socio-economic status and determinants in an aging population, informal support systems and emerging trends. Total project budget through 1994: \$498,820.

CPR/91/P26

- Strengthening of national training centre for MCH/FP professionals and its branch institutes (initiated in 1991). Executing agency: WHO. To provide further support to the Chengdu Training Centre, established in 1980, to give long- and short-term training to health professionals in technical aspects of MCH/FP. Total project budget through 1994: \$352,560.

CPR/91/P28

- Improving the status of women through income-generating activities and maternal and child health care/family planning in Guizhou, Hubei and Xinjiang (initiated in 1991). This project aims to set up revolving funds from which enterprises directly benefitting women could obtain loans for improving production capabilities. Profits from these investments will be used to finance health clinics for women and children, and rural development centres where women can receive training in specific skills as well as group organization and financial administration. Total project budget through 1994: \$3,000,000.

CPR/91/P30

- Improving the socio-economic and family welfare of women in Shanxi (initiated in 1991). Executing agencies: FAO/UNFPA. This project adopts an integrated approach of linking income-generation, social development and training activities to address the needs of women and increase their control over resources and decision-making in the community and in the family. Through a revolving fund, income from economic activities would then benefit social welfare development activities in each community. Total project budget through 1994: FAO, \$333,600; UNFPA, \$715,207.

CPR/91/P33

- Analysis of China's 1990 population census data (initiated in 1991). Executing agency: United Nations. To provide technical assistance for the in-depth analysis of the 1990 census data and to disseminate the results. Total project budget through 1994: \$300,000.

CPR/91/P35

- ▶ Training of trainers for rural family planning workers in FP technology and interpersonal communication (initiated in 1991). Executing agency: UNFPA. To develop the capabilities of the 15 pilot provincial training centres in planning, implementing, monitoring and evaluating training programmes in family planning administration and technology and interpersonal communications for grassroots workers. Total project budget through 1994: \$798,445.

CPR/91/P36

- ▶ Income-generating activities for women in Inner Mongolia (initiated in 1992). Executing agency: FAO. To promote an integrated approach of linking income generation, social development and training activities to address the needs of women and increase their control over resources and decision-making in the community and the family. Through a revolving fund, income from economic activities would then benefit social welfare and development activities in each community. Total project budget through 1993: \$967,000.

CPR/91/P41

- ▶ Population policy for rural China (initiated in 1991). Executing agency: United Nations. To support the Research Centre for Rural Economy to study socio-economic and demographic needs in rural areas. Total project budget through 1994: \$300,000.

CPR/92/P42

- ▶ Improving the status of rural women through income-generating activities and maternal and child health/family planning (initiated in 1992). Executing agency: FAO. To promote an integrated approach of linking income generation, social development and training activities to address the needs of women and increase their control over resources and decision-making in the community and the family. Through a revolving fund, income from economic activities would then benefit social welfare and development activities in each community. Total project budget through 1994: \$1,602,500.

CPR/91/P43

- ▶ Study of SSR/CUT IUD efficacy, use, cost benefit and conversion (initiated in 1991). Executing agency: UNFPA. To assist the Government in comparing the stainless steel ring IUD (SSR) and the CuT IUD by funding a study on the comparative effectiveness of the two IUDs, a comparative analysis of costs, and a thorough cost-benefit analysis of conversion from SSR to Cut. Total project budget through 1993: \$48,800.
- ▶ Cumulative programme expenditures through 1990: \$111,198,818. Budgets: 1991, \$13,553,267; 1992, \$11,647,003; 1993, \$11,952,667; 1994, \$5,923,126.



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